reduce the farm acreage, in order that the farmer may continue to go on living, we are considering putting more than two million new acres in cultivation. They will be infinitely better and more productive acres than the acres we plan to make into woodland. This seems to be a good way to get rid of the farmer. We will make him raise so much corn and hogs that he will starve to death.

BUT that isn't all of it. Hardly 3.2 per cent of it. In order to get two million and more new acres into cultivation the government proposes to irrigate them. The dams required would be too costly to win popular friendship just now, except that it is promised the dams will produce power. Our progressive legislators promise to sell this power at a lower price than privately owned companies can afford to sell it, and the inevitable loss to the government will be charged against the taxpayer. The new acres and the cheap power are merely bait to attract support for a complicated plan for the socialization of the electric power business, for the plan would destroy the privately owned companies. Also the taxes they now pay.

A collateral method of radical attack is in the furthering of regulation by commission.

Let it be admitted that regulation in some form may be necessary. Yet regulation is a sturdily growing plant. The more any industry is regulated the more regulation is demanded. The Interstate Commerce Commission began with a small shop and a few clerks and has now become one of the most costly branches of the Federal government. Presently regulation will become so unbearably intricate that it will clog the wheels. Simplification will then be sought by the radicals in direct government ownership and management.

Our national policy, if it is a policy (and no one can trap me into saying that we have a policy at any time) makes me think of my Uncle Jerry. Four times in consecutive weeks he dived off the end of the pier into shallow water and scraped his poor face against the bottom and came up with his head looking like an accordion.

"I can understand," I said to him, "that you might dive once without asking whether the water was deep enough to submerge your front teeth, but why make it a foursome?"

Uncle Jerry said I talked like a fool.

"How could I tell," he asked, "that no water had flowed into that dumb lake?"

SOMETIMES I think that our national experiments with water have been no more successful than my Uncle Jerry's. Apart from the maintenance of our ports and navigable rivers, which is a proper function of government, we have spent tax money or are preparing to spend it in four other aqueous directions.

One is in flood control. When the floods are actually controlled this must be accepted as a wise expenditure. One is in underwriting the Inland Waterways Corporation. This has only siphoned thirty or forty million dollars out of the government's pocket, which hardly amounts to anything nowadays, and has dashed a few cups of water from the mouths of the drying-up railways. It seems

unreasonable to complain about this, inasmuch as for some years the railroads have been doing their drinking at mirages anyhow.

THE third method by which tax money is being or will be floated out of our pockets into hydraulic enterprises is through the Four Great Projects.

Of these, the Boulder Dam project may pay for itself ultimately through the sale of power, if the radicals do not go bulging into that situation as they have bulged into every other situation of the sort, and insist that power be given away to all farmers who can prove they were legally married and have children of voting age.

The second of the Four Great Projects is at Muscle Shoals. The report of the engineer of the Muscle Shoals Commission shows that under the best conditions power cannot be made and distributed there as cheaply as it is now being made and distributed there by privately owned corporations. The engineer also shows that in spite of the fact that the government will be able to evade most of the tax burden, the government works must inevitably lose some hundreds of thousands of dollars a year if it sells electric power at the rate maintained by the private companies. If it cuts under that rate it will lose more money. But by that means it can wipe out the privately owned electric power corporations which pay taxes.

THE third of the Four Great Projects is the Columbia River plan. This is still in blue prints, but it is assumed, and probably with accuracy, that the cost of construction can be repaid with interest in sixty years, through the sale of power.

The fourth and last of the Four Great Projects is the St. Lawrence power, navigation, and Indian Remedies program. The State Department has estimated that this will only cost us a quarter of a billion dollars, or thereabouts, not counting the dislocation of industry due to a new and unneeded production of power, and the unsettlement of the middle west freight and agricultural situation by taking business away from American railroads and giving it to British freighters on the Great Lakes. But the State Department's interests are primarily in treaties and not in costs. Colonel Hugh Cooper is so much of an engineer that when the Soviet government wanted a capable man to build a hydraulic plant it picked him. Cooper says the St. Lawrence project may cost anywhere from thirteen hundred thousand dollars up. If the State Department learns of this it will write a Note.

The fourth of our national series of Uncle Jerry dives is in the irrigation of arid lands.

¶ "WE *are seriously proposing—if the American people ever seriously propose anything, which is a proposition at least debatable—to spend more money to put more water on acres that could not be sold for the cost of putting the water on.*"

It is the irrigation (or "reclamation," if you prefer that word) that is under consideration here. I am not pegging at the Federal Reclamation Bureau of the Department of the Interior, which has done the work on the government's reclamation projects, or at the various Congresses which authorized the money needed, or at any one of the Presidents who since 1902 have shone like stained glass windows whenever they spoke of making the desert blossom like the rose, of which every one of them did speak. I am not blaming any one or calling any names, or doing anything except offering the right hand of fellowship in an iron glove. The one thing I am trying to do is to call attention to a condition which could only be matched in Wonderland.

We have so much land now in cultivation that the farmers are in what amounts to rebellion. They cannot pay their taxes and they are discharging their mortgages with shotguns. It is probable that most of the irrigated land in the west can be bought today for less than the cost of putting water on it. Certainly a large minority of it could be so purchased. Farm lands everywhere are not bringing the face of the first mortgages at auction.

In the face of these facts we are seriously proposing—if the American people ever seriously propose anything, which is a proposition at least debatable—to spend more money to put more water on acres that could not be sold for the cost of putting the water on. And when they come into irrigated cultivation they will ruin the farmer all over again.

If this is horse sense then I am a horse chestnut.

It can only be justified if the government as a serious proposition throws out of cultivation every acre which cannot to day be advantageously farmed. This could only be done, as I have previously pointed out, at the cost of the taxpayer. He must finance a scheme to add materially to his cost of living. These are expressions of personal opinion only, of course, and of the opinion, at that, of a person who holds that every time the government gets into what should be private business it makes a mess of it. This goes from Petrograd to Seattle.

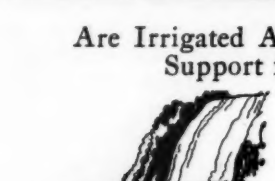
My discourse today will be under two heads.

The first is that the reclamation of arid lands which has been backed by the government for a quarter of a century has been from the agriculturist's point of view a serious and costly mistake.

The second is that the mistake will be added to and made more dangerous when two million additional arid acres are added to the cultivable area of the United States.

The first of the two heads—that the reclamation policy has been a mistake—is and must always remain debatable. No decision can ever be reached on the facts because they are so intertwined with sentiment. It is assuredly true that the thirty-five reclamation projects which the government has backed have added greatly to the wealth of the nation. At least they seemed to have added to the wealth. Towns have been built on them, merchants and manufacturers have sold goods, men and women have

Are Irrigated Acres the Bait for Luring the Farmers' Support for the Federal Power Projects?



"OUR progressive legislators promise to sell power at a lower price than privately owned companies can afford to sell it, and the inevitable loss to the government will be charged against the taxpayer. The new acres and the cheap power are merely bait to attract support for a complicated plan for the socialization of the electric power business."

married and babies born under them. The same men and women might have gone elsewhere and built towns, of course, but it will be admitted that there is no more pleasing sight in the world than an irrigated community set down in the midst of a deplorable gray desert, water trickling through the laterals, white cottages nestling under green cottonwoods, broad fields covered with lush crops. Of the thirty-five government-backed projects, only three are classed as failures. These failed because of bad locations due to political influence, bad planning, or failure of land or water.

If these reclamation projects were needed by the United States then they were cheaply purchased at the gross government expenditure of about $273,000,000, a large part of which has been paid back by the settlers themselves. I would not urge against them that they have subtracted from the total of range pasturage, for in effect they did not. The American plan has always been to waste natural resources as rapidly as possible and our range pasturage has been so consistently overgrazed that over hundreds of thousands of acres the cows carry corkscrews in order to pull out the grass roots. If the almost three million acres irrigated under these projects had not been irrigated they would today be as dry and dusty and water torn and generally be-damned as so many other million acres of range pasture.

On the thirty-five projects almost 43,000 farms have been created, supporting a population of about 177,000 persons. To be precise, the population is not being supported now. Last year's crop values only amounted to $74,000,000, which is less than half the crop values in 1929. The farmers are moving away from some of the government projects, and are failing to keep up their payments to the government on others. The total payments received by the government from all sources, including oil rights and power sales, were only $2,612,000 in 1932 as compared to $6,220,000 in 1931. Of the 1932 payments $1,500,000 was on construction and for power and oil. This failure is regrettable from every point of view, individual and national.

But the disastrous phase of the situation, as it seems to me, is that the almost three million acres added through the aid of the government to the cultivable area of the United States were not only not needed for crop production, but that they have done a definite injury to American agriculture. If they could be taken away today the owners of the remaining farm lands would be in a more sound position. It is true that they are only 1.1 per cent of the total cultivated area, but the sale values of their crops may have been just that little bit more that the American farmer could not stand in a time of stress. In 1929 the government-backed projects produced crops valued at $87,250,000. This almost equals the value of American wheat exported in 1930.

No one questions that we have too many acres under cultivation in this country. Plans are continually being offered to reduce the wheat and corn and cotton and potato acreage in order to lift the value of the crops produced on the remaining area to a level which offers the farmer a chance to make a decent living. Yet the plans which are under consideration today envisage a further addition to agricultural lands through government aid. Before they are examined it is desirable to make, or attempt to make, one further point.

Hundreds of thousands of acres are being irrigated in the west today by plants which had their inception in private enterprise, and were financed by individuals or associations of individuals. Many have met with partial failure, because of the innumerable reasons that bring failure to other enterprises elsewhere. Most of them have been successful because in moderately prosperous times they are basically sound. Coöperating farmers and investors created them because they promised to be profitable and that is the only reason for the initiation of any business enterprise. The pioneers had their choice of locations and lands and economic conditions warranted their pioneering.

Then the government got its thumb in the pie.

The lands reclaimed by government action were presumably second-choice lands, because the pioneers had had the first choice. The lands were often either not of the first quality or conditions made the prime cost of irrigation works and development more than private investors felt warranted in undertaking. This is a generalization, of course, and exceptions may be discovered, but as a whole I believe the statement to be accurate. The government has built the highest dam in the world. No company of farmers would have undertaken such a thing. The government is contemplating the possibility—only the possibility it is true and for an unnamed future date—of pumping water up a 362-foot lift to water a mountain valley. Farmers would not tackle that kind of a job. The work done by the government has been well done in most cases and economically done in most cases. Nothing but praise is offered the government's engineers. For all that it seems to me that if the government had not touched the dry lands at all the American farmer would be better off. It is a truism that until he is financially sound

again the rest of us will be ailing.

THE second of the two heads into which this article is divided is that there is in contemplation the addition of two million more acres to the agricultural area through governmental action. To be precise the area is about 2,100,000 acres. It is true that twenty years may pass before these projects are completed. And back of them are a doubtful million and a half other acres.

Half a million of these acres are in the Imperial Valley of California, under the All American canal which is to be built as a consequence of the Boulder Dam project. The Imperial Valley is one of the most fertile regions in the world. Its climate and soil are adapted to the production of out-season and, therefore, profitable crops. The Imperial Valley irrigation plant was privately planned and privately financed. It serves approximately half a million acres and until recently its bonds commanded a premium. The valley's farmers suffered from the depression just as farmers have everywhere.

The building of Boulder Dam was forced upon the government by the need of controlling the Colorado river floods, which often covered the Imperial Valley, and by the Californian need of water and power for urban use. It may be accepted that the flood protection is a proper function of the government and that California's necessities could only be met through Federal coöperation. The sale of power, if the radicals do not insist on giving it away at some future date, will ultimately pay for the construction cost.

But the government proposes to go further.

THE Imperial Valley may be considered as a bowl. The privately owned canals served the bottom of the bowl. These canals were built for profit and, therefore, no needless costs were incurred. The All American canal, however, which is to be built by the government, runs around the rim of the bowl. Under it are half a million bounteously fertile acres which were not previously irrigable. It is true that the voters of the valley, by five to one, approved this project. It is also true that the statement was made on the floor of Congress recently, and has not to my knowledge been challenged, that:

"Lands can be bought in the Imperial Valley today for less than the cost per acre of putting water on them."

No business man would engage in such a proposition, of course, but the government is not in business. If and

¶ "THE *government is actually contemplating the lift of water for irrigation purposes to a height of 362 feet—something like the height of the Woolworth building in New York city—for the watering of a dry valley. . . . I should like the reader to reflect upon the condition of the farmer today who does not have to lift water 362 feet to grow his sugar beets.*"

when the half million acres are added to the Imperial Valley's productive area, something more than half a million acres must go out of production elsewhere. These lands produce larger crops and more dollars to the acre than even the best of the farming lands of the east and less productive land simply cannot compete with them. The law of supply and demand will be served in the end. It is true that for the most part the valley produces table luxuries, and long staple cotton, but if the American breakfast table is ever surfeited with canteloupes and strawberries out of season then almost anything else can be grown there. It is also true that the new half million or so of farm acres may not be brought into production for another twenty years. But this may be stated confidently.

THE current depression will not last forever. Sooner or later demand will be re-aroused and farmers will pour into the Imperial Valley. One of two results then seems inevitable. Either the valley's prosperity will be drowned out by over-production, as agriculture elsewhere has been, or else the valley farmers will begin to compete with their less-favored rivals elsewhere. If the American farmer is not to be bowed down permanently under the immensity of his crops, then the less productive acres—the marginal lands—must be scrapped. If their owners refuse—and it is conceivable that they might refuse to give up their less valuable ground—the last state of the farmer must be worse than his first. If they do surrender their lands, someone must pay for them.

THE fourth of the Four Great Projects is that in the Columbia river basin.

This is not quite so spectacular as the Boulder Dam project, but it is quite as gigantic. Perceptive descendants of this generation should erect a statue on the banks of the Columbia to Power, for it is Power that made Boulder Dam possible and will build the Columbia river works if they are built. The farmers have no particular yearning for more farm lands just now. Most of them have too much as it is. There are one million and a half acres which can be irrigated from the Columbia river dam, when and if built, but I do not discover that the farmers have asked for them. They cannot sell their cultivated acres today for the cost of putting water on these untouched acres in the Columbia basin.

But there is power there. Two million one hundred thousand horsepower at the generators. The engineers and the chronic do-gooders could not let it alone. The one saw a tremendous chore that needed doing and the others saw great valleys filled with grateful people chock-a-block with votes. The scheme is hardly in the blue-print stage as yet, but it has been declared feasible, on the understanding that the power which can be produced so cheaply can be sold. If the contracts are made, then the project will pay for itself in sixty years. The power promises to be so cheap that the government is actually contemplating the lift of water for irrigation purposes to a height of 362 feet—something like the height of the Woolworth building in New York city—for the watering of a dry valley.

The Effect of a $11.20 Annual Water Tax per Acre on the Farmer's Profits

"WHEN I discovered that the cost of irrigating certain lands in Idaho would be $400 per acre, I saw at once that the government was just having a hearty laugh. . . . A farmer who can figure out a way to make his farm pay after meeting the annual water charge of $11.20 per acre on one of the lesser irrigation projects is wasted on farming. He should move right into town and organize an affiliate and begin selling stock to bankers."

That statement will be permitted to stand without added emphasis. Only I should like the reader to reflect upon the condition of the farmer today who does not have to lift water 362 feet to grow his sugar beets. He is just as happy as a pig caught in a gate.

THE 1,500,000 acres will not be put under cultivation at once, of course, if the Columbia basin plan goes through. They may be added at the rate of twenty thousand acres a year. Any figure will do. No one knows. The total investment, according to the estimates, will be $400,000,000, and the farmer who buys land under the project will pay to the government $2.50 per acre annually for thirty-two years. Farmers who have bought equally good lands under other government projects elsewhere have not been able to pay their annual water rates to the Reclamation Bureau. Moratoriums have been declared. Congress has been asked to help the farmers. With the example of the European borrowers before them, it is at least possible that the farmers will ask for a reconsideration of their debts long before the contract periods expire. And, of course, they may not. After all, they did not borrow money from the American government because their lives were at stake. They just thought it was good business. As in the Imperial Valley, lands will not be put under water in the Columbia basin except as they are called for by prospective settlers. Perhaps the farmer's economic system may not be upset after all. Except that if in the future fewer men on the machines will turn out a greater number of pairs of boots, so that the farmer's prospective market is reduced, then the whole plan seems to be essentially cock-eyed and I am going fishing.

I HAVE been so lost in large figures that I have forgotten about some other large figures. There is in progress an investigation of the irrigable possibilities of the upper Colorado river basin, in which the Federal government is coöperating with the states of Colorado, Wyoming, Utah, and New Mexico. Note that word "investigation." Engineers are prowl-

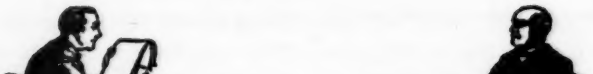
ing around through some of the grandest scenery in the world, popping off rattlesnakes and badgers, in an effort to estimate how much of the scenery can be harnessed to a plough. The engineer in the Reclamation Bureau who called my attention to this said that no one knows what may be discovered. He would not be surprised if another million and a half acres of irrigable land might be added to the cultivable area, which will in turn drive out of cultivation a certain number of acres of not quite so marginal lands in the eastern states. That is the assumption, at least. If we are now raising more food than we can eat—or at least more than we can sell—and more acres are put in cultivation on which will be raised more food—there seems no need to carry the calculation farther?

And, as a drab and factual cracker to this article, I must note that 203,000 new acres are soon to be added to the irrigable lands under the great dams at Minidoka in Idaho and Owyhee in Oregon. I might review some of the figures in the report of the Reclamation Bureau, but I shall not, because at heart I am a sad man. When, agriculture being what it is today, I discovered that the cost of irrigating certain lands in Idaho would be $400 per acre, I saw at once that the government was just having a hearty laugh. Farming is not a bonanza, even in the best of times, and few farmers are financiers at any time. A farmer who can figure out a way to make his farm pay after meeting the annual water charge of $11.20 per acre on one of the lesser irrigation projects is wasted on farming. He should move right into town and organize an affiliate and begin selling stock to bankers.

I want to be fair about this prospective shift in the agricultural status. If the addition of two million new acres, with a possible million and a half other acres in the background, is to bring about the New Dawn, I am for it. But if the New Dawn should prove to be just a lantern shining in a fog I would be terribly hurt.

Regulation by Negotiation

Adjustments of utility rates made informally and amicably around the conference table have long been hailed as both an economical and effective means of settling differences between regulatory commissions and the public service companies. But does it actually benefit the ratepayer? This provocative question is raised by MARK WOLFF—in a coming number of this magazine.



The "Ordeal by Water" of the Holding Company

Part II

In the preceding article, the author (who was for many years Chairman of the Public Service Commission of New York) presented a searching analysis of the holding company, set forth its obvious virtues and benefits as well as its obvious defects, and concluded that it has a definitely useful if not essential function to render in our present economic structure—if! In this second and concluding article the author offers constructive suggestions for placing this modern corporate device under adequate control—a process to which Congress is now giving active consideration.

By WILLIAM A. PRENDERGAST

For several years the state public utility commissioners have, both individually and collectively, through the National Association of Railroad and Utilities Commissioners been eying the holding companies.

At the annual convention of the state commissioners in 1928 the Committee on Capitalization and Intercorporate Relations presented a report urging that holding companies should be defined as public utilities and be made subject to state regulation. The report said that when holding companies control operating companies, they may be considered as public utilities in fact and should be so considered.

At the 1930 convention of the association, the Committee on Intercorporate Relations devoted a large section of its report to holding companies. The second paragraph of this report gives the following chief objections to the holding company method of operating local state utilities:

(1) The charges for services which may sometimes be considered beyond the reach of the state commission;

(2) The inflation of the subsidiary's property accounts through holding company charges for construction services;

(3) The issuance of securities by holding companies based on inflated prices paid for subsidiaries and the sale of these securities to the buyers who may be under the impression that these securities have the sanction of some regulatory commission.

The report goes on to speak with favor of the course of the Wisconsin commission in requiring absolute proof of the equity of charges made by holding companies before allowing them as operating expense of subsidiaries. The belief is expressed that

the United States Supreme Court will stand behind the state commissions in demanding full and complete proof of the reasonableness of the holding company charges. One paragraph of the report reads:

> "We believe it is apparent from the trend of recent decisions of state commissions and Federal and state courts that the state commission is amply qualified to deal with the holding company problem in so far as it affects rates of public utilities to the consumer. Whether that control is sufficient to safeguard the investing public from the danger of unsafe securities we do not attempt to say."

At the 1931 convention of the state commissioners the report of the Committee on Intercorporate Relations reiterated the belief that the states have adequate power to regulate the reasonableness of operating expenses under adjudicated law by the United States Supreme Court. The court's decision in the Illinois Telephone Case (Smith et al. *v.* Illinois Bell Telephone Co.) was referred to as strengthening the power of the commissions so far as concerned the charges made by holding companies against their subsidiaries. This decision (December, 1930) held that the cost to the parent company of rendering the service charged for or the article sold was a factor to be considered in the reasonableness of the subsidiary's operating expense. In previous cases the court had ruled that the test of reasonableness was the value of the service or article to the subsidiary.

The holding company issue, is the most genuine, most acute, and in some ways the most important of the problems and issues connected with the power industry. The holding company issue is more real than the question of public ownership.

The collapse of the great Insull holding companies has tended to discredit all holding companies, especially utility holding companies. Mr. F. J. Lisman, the investment banker, writing in PUBLIC UTILITIES FORTNIGHTLY,[1] said:

> "The collapse of one or two companies of any magnitude, or scandal connected with any important member of the industry, will reflect on the credit of the industry as a whole, and will make it less easy for other utility companies to obtain credit for expansion."

That sounds prophetic today. There are holding companies which cannot borrow money right now. Operating companies even today can get enormous credits while parent holding companies sink!

Is it that the holding company is essentially vicious and the operating company essentially sound? I do not think the evil is in the essence of the holding company; but I do most emphatically believe that the fact that the operating companies have been regulated while the holding companies have not explains why nearly all of the utility operating companies are sound while so many of the holding companies are finding difficulty in maintaining their financial stability. The operating companies, under state regulation, must be sound; on the whole, they are the soundest of all companies in this depression. But the holding companies, unregulated, are sound or not, according to the way they have been managed. Does not this condition constitute a good argument in favor of the regulation of holding companies?

[1] September 3, 1931.

Sound utility holding companies have nothing to fear from investigation—or from regulation. Sound holding companies—of which there are numerous excellent examples—prove effectively that there is nothing essentially wrong with the holding company device, certainly as far as the investor is concerned. Holding companies which have been guilty of unjustified write-ups of the properties of their subsidiaries have in their structure, however, the possibility of trouble; so have holding companies whose capitalization corresponds to income swollen by various fees which may be reduced or ended. But the holding company whose securities are based on uninflated securities of regulated, well-managed operating companies, is in a strong position. The task at hand is to make all utility holding companies sound.

I BELIEVE that utility holding companies—and all other holding companies for that matter—should be subject to regulation.

Experience has proven that regulation of the issuance of holding company securities is an imperative necessity. Holding companies have not been regulated except as to the certificate of their issues by so-called "Blue Sky Law" authorities. But this supervision (if it may be called such) has not been of the searching nature which has characterized the supervision by public service commissions of the issuance of securities of operating companies.

Each state should delegate to a commission the power to regulate—to authorize or prevent—the issuance of all securities of holding companies organized in the state.

But that is not all.

Holding companies which control regulated operating subsidiaries should themselves be subject to regulation by the same authorities as the subsidiaries. In these holding company systems which we have been here considering the practical direction and domination of the operating companies by the holding companies is absolute. The holding company is the actual, if not the legal, operator. Therefore, if the operating utilities should be subject to regulation, as they are, why should not the real operator of these operating utilities be regulated? It seems perfectly obvious that it should be. And regulation of these companies should, of course, go beyond control of the issuance of their securities; it should embrace regulation of their accounting, and insure publicity and uniformity of their accounts, of their contracts, fees, services, salaries, dividends. It should include the power to authorize or forbid acquisition by holding companies of interests in operating subsidiaries or in other holding companies. This last power is desirable in

¶ "THE *fact that the operating companies have been regulated while the holding companies have not explains why nearly all of the operating utility companies are sound while so many of the holding companies are finding difficulty in maintaining their financial stability.*"

order that public service commissions may be able to assist in working out rational consolidations, and to prevent helter-skelter, inefficient combinations.

My position in favor of regulation of holding companies was made known many times while I was chairman of the public service commission of New York; the commission during that period repeatedly went on record in favor of regulation. In the commission's annual reports to the governor and to the legislature in 1927 and 1928 attention was called to the unregulated issuance of holding company securities and to the fees charged operating companies by their holding companies. The commission also caused to be introduced bills which would give it a measure of regulation. The New York commission is still without adequate control of holding companies and their relations with operating companies.

In the commission's annual report issued in February, 1929, the suggestion was again made that utility holding companies be brought under the jurisdiction and supervision of the commission. The report declared that the commission had no criticism of legitimate holding and investment companies but asked that the Public Service Commission Law be amended to require holding companies to file reports on properties, services, and revenues, to give authority to the commission to investigate the relationship between holding companies and operating subsidiaries, to permit inquiry into costs and profit accruing to non-utilities from products or service to operating utilities, and in certain other respects. In 1930 the report of the majority of the commission on the Revision of the Public Service Commission Law recommended that the commission have authority over management contracts and some other minor powers. The legislature that same year passed a bill giving the commission authority to disapprove management construction and engineering contracts if not in the public interest and granting power to require disclosure of certain information.

But in New York state, as generally elsewhere, control of holding companies remains inadequate.

But even the most extensive granting by a state legislature to a public service commission of regulatory powers over holding companies would be inadequate in instances where the holding company is organized in another state and is, therefore, a "foreign corporation."

In such instances, the state can, if it wishes, forbid the sale of a holding company's securities in the state. But such prohibition would not be entirely effective. And the state would, of course, have no control of the issuance of those securities; some other state—some very lenient state perhaps—would have control over that. Each state can, of course, through the public service commission or other constituted agency, attack the situation from the end of the operating companies doing business in the state. The lending of money to holding companies by subsidiaries may be forbidden, fees charged by holding companies may be disallowed as operating expense, even the payment of dividends may be ordered held up. But as long as any one state remains over-

What Holding Company Regulation Should Include:

"If the operating utilities should be subject to regulation, as they are, why should not the real operator of these operating utilities be regulated? It seems perfectly obvious that it should be. And regulation of these companies should, of course, go beyond control of the issuance of their securities; it should embrace regulation of their accounting, and insure publicity and uniformity of their accounts, of their contracts, fees, services, salaries, dividends."

lenient, a company may organize there, engage in objectionable financial practices, flood the country with its securities, dominate and exploit subsidiaries, and escape regulation.

It appears, therefore, that the only effective way to meet the holding company problem is to have state regulation supplemented by Federal regulation.

A FEDERAL commission should be given powers over holding companies whose operations are interstate similar to those mentioned above as desirable for state commissions over holding companies whose operations are intrastate.

Federal legislation should provide for coöperation in control between state commissions and the Federal commission; where states exercise no powers, the Federal commission should act alone if the holding company's operations are interstate in nature.

I would not favor a new Federal commission. The necessary powers could be granted to the Federal Power Commission. Or it may be that the Federal Power Commission, whose work for the future promises to be much less than many believe, may be merged with the Federal Trade Commission or the Interstate Commerce Commission. In such an event, the Federal phase of holding company regulation would be lodged in that merged commission.

Utility spokesmen as a rule have opposed regulation of holding companies, especially any sort of Federal regulation. They have held that holding companies should be left free to develop unhampered. But there is evidence of more general acceptance in utility circles of the idea of regulation of holding companies, even of limited Federal regulation, especially where states have no power to act.

THERE has been a great deal of discussion of the legal phase of regulation of holding companies. It has been contended that holding companies are not "affected with a public interest" and, therefore, are not subject to regulation as are operating utilities. According to this view, they are subject to laws applying generally

to all corporations and no more. It has also been contended that holding companies are not engaged in interstate business and, therefore, the Federal government cannot reach them. The claim here is that ownership of stocks in subsidiaries doing business in different states does not constitute interstate commerce. Similarly, it is held that a company which sells its securities in many states, or in more than one, is not by such action engaged in interstate commerce.

Holding companies which really dominate and direct the affairs of operating companies are just as much affected with a public interest as operating companies are, and should be just as much subject to regulation. There are decisions holding that the corporation fiction may be disregarded where one company really directs the affairs of another. Holding companies which direct the affairs of operating subsidiaries in various states and holding companies which sell their securities across state lines are engaged in interstate commerce and should be subject to Federal regulation. I do not doubt that the state governments and the Federal government have all the powers which are necessary, if they care to exert them, to regulate the utility holding companies and holding companies of a similar nature in other fields. They have powers to regulate the issuance of securities, to regulate intercorporate charges and relationships, to regulate holding company accounting, and all other things that need to be done.

HOLDING company and utility executives would be well advised not to oppose regulation of holding companies. They are, of course, entitled to be heard and to exert themselves in behalf of fair and reasonable regulation. They should bear in mind the fact that the corporation is an artificial creation, authorized by the state, for the public good. Its existence is not a right; it is a privilege granted by the state to its organizers. The state is responsible for the creation of corporations; it may withdraw that authorization, or it may modify the terms. The nature, constitution, and the operations of corporations must make for the public good; if they do not, the state—the creator—should, and will, change the nature, the constitution, and the operations of the corporation—the creature. It is well to bear this in mind.

The holding company can be a sound and useful institution. Some existing holding companies prove that. Holding companies will be generally sound and useful if fairly and properly regulated. Their dangers and detriments can be eliminated and their services and constructive qualities retained.

What the Records Show about the Tax-free Towns of Oklahoma

Of the 68 towns in this country which have been exploited as "taxless" because of the successful maintenance of municipal plants, 56 are located in Oklahoma. For several months E. F. McKAY *has been checking up on these towns and tabulating his findings; he will report them in a coming number of this magazine.*

WHY THE STATE UTILITY COMMISSIONS SHOULD

Regulate the Municipal Plants

PART I

For several months the author of this article has been investigating the municipal water and power plants with the purpose of ascertaining the nature and extent of the regulatory supervision exercised over them. His findings are so informative, and his conclusions so definite, that he has incorporated them in a series of two contributions to this magazine.

By HOWELL WRIGHT

MUNICIPAL waterworks and electric light and power establishments are public service institutions. This is a fact whether one considers the ownership and operation of such ventures as a function of government or as the government acting in its business capacity. This would seem to be self-evident.

Users of such municipal utility service are entitled not only to good service at fair and equitable rates but also to a business-like management conducted solely in their interest, without discrimination. They are entitled to know that the money they pay for service rendered is used in the business itself and not directed to other public uses and above all to that same protection of regulatory supervision, state or local, now extensively afforded to and almost universally demanded by patrons of the privately owned public service corporations and by many others.

The necessity for regulatory protection of these municipal utilities is not generally understood by the public.

STATE regulation is looked upon with fundamental disapproval by those who believe that the purposes of public and private utility operation are quite different. Regulation of any sort, of municipal utilities is frequently opposed by others who consider municipal ownership and operation in the nature of a cure-all. It is sometimes mentioned in mild terms by spokesmen for certain private utilities, but there is no such outspoken demand from within the industry as a whole as would be naturally expected. The public has been propagan-

dized to a great extent about regulation of private utility corporations, but has heard little about supervision of municipal utilities and the reason therefor. It is therefore, as a whole, apathetic.

Regulation, however, will be demanded and eventually secured as needed by municipal utility customers themselves as they gradually discover how often they are the victims of discrimination, double taxation, and diverted funds.

The present period of economic distress will emphasize not only the necessity of retrenchment in governmental expenditures, but also of a more business-like management of municipal utilities through the medium of either state or local supervision.

This is a particularly appropriate time for the investigation of the regulatory relation of the state and municipal utilities. Why center all the attention upon the private utilities? The public needs to be educated and to learn that both taxpayers and ratepayers are as much in need of protection against inefficient and political management of municipal utilities as they are of protection against abuses of the public service corporations. This problem is a subject for thorough investigation.

Municipal utilities in this country, generally speaking and taking the states as a whole, are outside the pale of state regulation. This is particularly true so far as municipal waterworks and electric light and power establishments are concerned. It is not the case with such public utilities as are privately owned and privately operated.

THE state commissions have fairly complete jurisdiction over the operation of private electric light and power companies in at least thirty-eight states, a limited jurisdiction in three states, while in the remaining seven states regulation is largely local in character. Delaware is the only state without a state regulatory commission.

In the main, this state system of regulation is accepted as the best method of handling the problems, although the holding companies and interstate problems of transmission may soon require Federal action. In the case of privately owned waterworks, which are not nearly so numerous as the municipal systems (only 28 per cent of our total water systems is privately owned and operated) at least thirty-five state commissions have complete regulatory jurisdiction over them, with limited power in several states; local control is in effect in the remainder.

In 1931 [1] there were 1937 municipal electric establishments in the United States. Of these 835 generated all and 96 part of the energy sold while 1,006 were distributors of purchased energy. The total horsepower capacity of the 931 generating stations was 2,586,959. There are municipal generating stations in every state except Rhode Island. Other states have as few as two or three such plants while each of seventeen widely separated states have more than twenty-five. The 1,006 municipal distributing utilities are widely scattered throughout the states.

Professor Wm. E. Mosher gave the

[1] According to the Institute for Economic Research, 1932, Monograph 6.

figures, reproduced at the bottom of this page, in December, 1931, concerning state commission control over certain private utilities.

The extent to which the municipal establishments are without state regulation is extraordinarily striking.

THERE is no state regulation of municipal electric establishments in twenty-six states. The state commissions have fairly complete jurisdiction in ten states with limited authority in twelve. By "fairly complete jurisdiction" we mean control over accounting, reports, rates, and service standards, although we are not unmindful of the importance of the certificates of convenience and necessity and security issues.

The commissions have control over municipal light plant accounting in seventeen states with no control in thirty-one; control over reports in eighteen states but none in thirty; they have no authority over rates in thirty-one states, full authority in twelve states, and limited in five states. As to service they have full control in thirteen states, limited control in one state, with none whatever in thirty-four states.

Maine, Maryland, Montana, Nevada, Indiana, Missouri, New York, and West Virginia are among the states having fairly complete state commission regulation.

Without doubt the system of state regulation of municipal utilities in effect in Wisconsin is the most far reaching of all.

The facts available as to regulation of municipal waterworks are not so satisfactory; at least thirty-five state commissions have no jurisdiction over these utilities. Five or six commissions have fairly complete control; among these are Maine, Nevada, Wyoming, and Wisconsin. Several commissions have what is called a limited control, while a number have control over extensions outside municipal territory. Seventy-two per cent of the water supply systems of the country is municipal. With a few exceptions, however, there is no real effective state regulation of these utilities. Actually they are "monopolies" uncontrolled.

WE are not considering here the merit or wisdom of public ownership or operation of waterworks or electric utilities. The former industry is predominately municipal in this country while the latter is to an even greater extent in the hands of private management. In some degree both are natural monopolies. The former has been called a "standardized industry" and one in the management of which municipalities have been declared to be "fairly successful" while the latter has been designated as a "progressive industry" subject to new inventions and methods requiring in-

State Commission Control over Private Utility Plants:

Kind of Utility	More or Less Full Control	Partial and Inadequate Control	No Control
Electric light, heat, and power	38	5	5
Water	34	3	11
Hydro electric	34	4	10

tensive educational and sales activities to promote new uses for and to increase the use of electrical service, and consequently one not at present easily adapted to governmental operation. This differentiation is a subject of much controversy.

Our opinions on this subject are:

1. Whether public ownership is a proper answer to a utility problem in a particular place at a particular time must not be determined in our opinion by theoretical concepts but rather by a consideration of all the elements that enter into the making of that particular problem at that place.

2. We do not favor public ownership and operation of all utilities as a general or fixed policy. We agree whole-heartedly to the broad general rule set forth by President Franklin D. Roosevelt that "the development of utilities should remain with certain exceptions, a function of private initiative and private capital."

3. Whatever the trend toward or away from public or private ownership and operation may be in the future, there is now a widespread necessity for modern state and local regulation of municipal waterworks and electric light and power establishments in the United States.

OUR advocacy of state supervision of municipal waterworks must not be taken as a criticism of waterworks officials. Rather it is a protest against an unregulated system of municipal utility management under which, by and large, competent superintendents and engineers and a great host of loyal public officials have been and are required to struggle to provide their respective communities with adequate water supplies—a system which tolerates among other abuses, from lack of understanding on the part of ratepayers, the diversion of the water revenues, directly or indirectly from their proper channels and legitimate uses to other purposes of government. The growth of the system is contemporaneous with the history of the development of municipal waterworks in this country.

The use of municipal waterworks funds for "free" service or for other than strictly waterworks purposes is not only contrary to sound administration but it is a positive menace to the very structure upon which the operation of the business is based. It is a blot upon municipal ownership and operation and when such diversion appears in the form of subsidies to supposedly tax-supported branches of government and to private organizations, as is common practice throughout the country, it is nothing short of "legalized imposition." It offers every sound reason for advocating a regulatory supervision of municipal waterworks which shall be as effective in its operation as any state regulatory control now exercised over private water companies. Regulation of this municipal utility is of prime importance.

THE practice of spending the municipal water customer's money for other purposes of government and especially of furnishing free water and free service is one of long standing. It has been spoken of as a "left over" from the days of political patronage. It is, but it has been left too long. Since 1895 it has been the subject of forty papers and reports at conventions of the American Waterworks Association. In 1926 one writer stated that from a study of nearly one

The Use of Municipal Waterworks Funds for "Free" Service Is Contrary to Sound Practice

"THE use of municipal waterworks funds for 'free' service or for other than strictly waterworks purposes is not only contrary to sound administration but it is a positive menace to the very structure upon which the operation of the business is based. . . . It offers every sound reason for advocating a regulatory supervision of municipal waterworks which shall be as effective in its operation as any state regulatory control now exercised over private water companies."

hundred cities in the United States, he found that there was "diversion in almost all of the cities studied on account of their not only accepting but demanding free service."

In 1929 the writer reported a story of the enormous diversion of waterworks funds as revealed in representative cities in more than a dozen states; we reported similarly again in 1931, calling attention to the extravagant and wasteful free water policy then in force in several states.

We believe there has been little if any change in this policy since then. There is ample evidence upon which to base the assertion that a form of "discrimination" is being practised generally throughout the country in the operation of municipal waterworks in that funds made up from customer water rents and sadly needed for waterworks' purposes are being diverted to governmental uses. This is not an expression of mere opinion but in the main a matter of record.

LET the following story serve as an illustration of what is being practiced by way of diversion of waterworks funds in many of the large cities in the United States and in a great many smaller ones. It is typical. Were there no other reasons for urging regulatory control of municipal waterworks, the practice would be sufficient in itself. It is a story of real facts in a large city.

Filtered water is furnished free of charge to public and private schools, to hospitals and charitable institutions, cemeteries and public buildings, including police and fire stations, libraries, and markets. It is used to put out fires (free fire hydrant rentals) to flush the streets and sewers, to sprinkle parks, playgrounds, and golf courses and for public bath houses and swimming pools. Water has even been given away to a private cemetery in perpetuity by contract. This free water policy is an enormous drain upon the business—at least $400,000 annually (metered and estimated). It would require only a little political courage to correct it within the law.

This city waterworks pays for everything it receives. It contributes

its share toward other city departments whose service it uses such as law and civil service. It pays rent for its city hall quarters. All services of all tax-supported departments are paid. If the street department repairs a street or sidewalk after a break or the installation of a water main or service connection, the waterworks pays the entire cost. If a park lawn or shrubs are disturbed by a water main trench, the entire expense must be borne by the waterworks.

THE waterworks in this typical city has installed more than 16,000 fire hydrants. The cost of about 3,000 was assessed against property owners, but 13,000 have been paid for out of waterworks funds. The total waterworks investment for this purpose is about $1,700,000, upon which no return has ever been realized. Water is furnished free. No fire hydrant rental is charged. To this extent, and also including similar expenditures for high-pressure fire mains, the water consumers (and not all the taxpayers, as would naturally be expected) have furnished fire protection to the whole community out of the water rates. Fire protection service and fire hydrant rentals present a peculiar form of municipal waterworks subsidy and rate discrimination which is common in many large and small cities. It is a by-product of unregulated operation of municipal utilities.

The supplying of water to the inhabitants of a municipality constitutes the discharge of a proprietary or business function. The operation of a fire department is an essential function of government and should be paid for by all the taxpayers and not just by the water consumers and especially not as a concealed item in the rates charged for water. This distinction between "proprietary" and "governmental" activity has been recognized by the Treasury Department of the Federal government for the purposes of income tax collection. The income of the "business" employee is subject to the tax but that of the government employee is not.

The waterworks receives no tax money. There is thus no compensatory service for what it furnishes. The free services furnished represent an unqualified diversion of waterworks funds, a diversion which is not justifiable in business or in law. It is wholly inconsistent with the purposes of a public service institution under either municipal or private management. The value of this diversion is about 5 per cent of the total revenue received. It is discrimination and double taxation in that the water-rent payer carries the burden.

Free service has been largely eliminated from the operations of privately owned waterworks. Courts and utility commissions generally recognize that there is no such thing as "free service." It must be paid for by someone. And the records show that the municipal water ratepayer is the victim.

Free service in all its ramifications is the nation-wide scandal of unregulated municipal waterworks.

ABOLITION of the practice of providing free water to religious, charitable, and other eleemosynary institutions, and a recommendation that the water system of New York be

operated as a self-supporting utility with no part of its expense charged to taxes, were urged two years ago by the community councils of the city of New York.

The proposal was made in response to a memorandum sent by the controller to civic associations asking opinions as to how best to increase the city's water revenues, to meet the cost of developing the Delaware river watershed as a source of supply as authorized under a decision of the United States Supreme Court.

Someone has said in substance somewhere that a municipally owned and operated utility, if regulation by a state commission does not stand in its way, can devise its own rate schedule, subject to such other municipal control as by the council or its equivalent, and that this is a pronounced advantage and at the same time a serious responsibility. We agree both as to the "advantage" and the "responsibility," especially when rate making for municipal utilities is placed in the hands of an elective council the chief business of the members of which is to secure reëlection, or in the hands of a board of control appointed for a short term of office. Under these circumstances there is relatively little science in the fixing of rates and charges for service on the basis of cost. The process is promptly related to the frequency of elections with the corresponding result of "political" rates. Nor does the fact that municipal utilities are generally declared to be "nonprofit" institutions offer any substantial guarantee of fair and equitable rates.

Let us illustrate:

COUNCILMAN Jones didn't run so well in the 1927 election. He wanted to run again but he needed five hundred more first-choice votes than he had in 1927 to be sure of reëlection in 1929. He got the votes—and the story of how it was done is a study in political rate making. The illustration is not the exception but rather too often the rule in the business of making municipal utility rates.

The city waterworks sells steam heat from one of its pumping stations to two hundred customers in a small apartment house district. Most of this steam is bleeder steam, although in the coldest weather the demand requires an added boiler to be put in service. It is not a profitable business; in fact, it has been a losing venture since its inception in 1913, nearly $200,000 being the deficit for twenty years of operation. This deficit has been absorbed regularly in the rates charged for water service. In other words, it is hidden in the water rates and the water consumers don't know it because they can't see it on their bills.

¶ "THERE *are numerous examples of municipal waterworks profits being used to subsidize municipal electric light plants. An extensive investigation of this practice would be very timely in this period of economic distress—in the midst of a public demand for lower utility rates.*"

The new administration has just succeeded in raising the steam rates to a point where if applied for a period of years the plant would at least break even, though, of course, without allowance for taxes not paid. It was the first real chance the plant ever had to become self-sustaining.

It was all short lived however. The apartment house owners didn't like it, filed a protest, went to their Councilman Jones who persuaded council to reduce steam rates 10 per cent. The chairman of the apartment house committee became the chairman of the Jones for council committee in the fall election and said committee delivered the needed votes. Councilman Jones was reëlected.

THE little city of Smithville once built an electric light establishment. There was no real necessity for it but no certificate of convenience and necessity was required by law. The generating station through lack of replacement reserves finally became useless and was abandoned. A private utility was near at hand with transmission lines so the city made a contract for power to be delivered wholesale at the city line and became a retailer, utilizing its own distribution system. The city was still a public utility unregulated by the state while the private company in all its business was and still is regulated in every respect.

This municipal distributor of electric current is not subject to the public utilities commission in any degree whatsoever. It is not even required to keep its accounts according to the uniform classification as prescribed by the public utilities commission; its council or board of control can devise its own rate schedule and is not required to file it anywhere; its service standards are checked by no one and it may practice discrimination almost without let or hindrance.

In the early fall of a certain election year there were many delinquent accounts. Some were those of friends of the dominant party in power. The controlling city fathers went over the list one evening and ordered service "continued" for their political supporters and "cut off" for their opponents.

ANOTHER town in the same state is in the public utility business as a distributor. It has some competition of a limited sort from a private utility. A large manufacturing plant was a private company customer. Its business was declining and its power account was sadly delinquent. The company could carry it no longer without being charged with discrimination. The municipality took over the customer, installed new service, and extended unlimited credit.

Both of these instances represent discrimination which, if practiced by a private company under state regulation, would be subject to appeal to and review by the public utilities commission. No such appeal is possible in the case of unregulated municipal utilities. Under such circumstances they are the beneficiaries of special privilege.

The fixers of municipal utility rates (whether councilmen or appointed short-term executive officials) not only naturally keep their eyes fastened upon election dates but also upon the form of rate prescribed for municipal

A Rate Based upon Votes Rather Than Costs Is Merely Political

"A RATE *into which enters all the recognized items of cost of the service rendered is one thing; a rate largely based upon the number of customers in the various classes of service is quite another. The former is directed in the main by 'costs' and is scientific, while the latter is influenced by 'votes' and is political."*

service. A rate into which enters all the recognized items of cost of the service rendered is one thing; a rate largely based upon the number of customers in the various classes of service is quite another. The former is directed in the main by "costs" and is scientific while the latter is influenced by "votes" and is political. Under this political rate policy, in states without commission supervision of municipal utilities, there is rarely any hesitancy in prescribing a form of rate which penalizes the large user in favor of the small user. Industrial rates, for example, have been increased to make possible a reduction in domestic rates solely for political purposes. Who favors such a practice?

There are more than a thousand political subdivisions in the United States buying power wholesale and serving as public utility distributors within their own boundaries. Many of them are located in states whose public utilities commissions have no jurisdiction whatever over municipal utilities. What a field for scientific investigation of rate making in all its phases!

INFORMATION is at hand from various parts of the country which conclusively demonstrates the need of placing municipal waterworks and electric light plants under the jurisdiction of the public utilities commission for the purpose of eliminating hopelessly inadequate accounting methods; to prevent discrimination in rates and credits; to bring about separation of the city's utility business from its general business, and to separate the accounts, records, and reports of water business from those of the electric business so that it may be determined to what extent each utility is actually able to stand on its own feet. No municipal light plant should be permitted to walk on waterworks' crutches.

The claim is often made that while it is better in the main for each utility to stand on its own feet and be self-

sustaining, municipal utilities should not be put in "the strait-jacket of state regulation" and be "circumscribed by rate-making formulas of courts and commissions." The argument is advanced that the aim and objects of municipal ownership and operation are different and that private and municipal utilities should not be measured by the same standards. It is said that strong municipal utilities should be permitted to help the weak; that one should be permitted to subsidize the other. The municipal operation philosophy justifies, in the opinion of some of its subscribers, a subsidy for an electric light plant from the profits of the waterworks or even from taxes. The very same people contend, however, that each jointly managed private utility must stand on its own bottom.

THE writer was recently associated with a well-known municipal ownership advocate in an arbitration rate case. In his report to the municipality recommending the building of a municipal electric light plant, he pointed out that the private company had treated its business in the municipality as a whole (in a valuation report of 1927) that is:

> "It combined the electric and gas properties, their revenues and expenses to show that the revenues it was receiving from both utilities were insufficient to provide depreciation and a reasonable return upon the value of the combined properties as set forth in that report. It appears from the report that while the revenue received from the sales of electricity in the year 1926 provided a considerable sum in excess of a fair return on the electric property, the revenues from the sale of natural gas fell short of the amount required to provide a fair return on the value of the gas property."

He then says:

> "I wish to point out that it is a well-recognized rule of utility regulation and rate making to require *each utility service to stand upon its own feet.* In other words, where the same company owns and operates the electric, gas, street railway, water, and other utilities in the same municipality, it has been the general practice of public service commissions, in fixing rates for each class of service, to treat each utility wholly separate and distinct from the others to the end that the consumers of electricity, for instance, may not be compelled to pay excessive rates for that service in order to give the company an adequate income on some other kind of utility service rendered by it or on its property as a whole."

The general application of this principle to municipal utilities by the public utilities commissions, when they have such power and the granting of such authority to them to do so, where they now lack jurisdiction, would be a blessing to municipal utility ratepayers generally.

THERE are numerous examples of municipal waterworks profits being used to subsidize municipal electric light plants. An extensive investigation of this practice would be very timely in this period of economic distress—in the midst of a public demand for lower utility rates—and would help municipal utility ratepayers to understand that such subsidies increase the rates they pay for service. An investigation of municipal utility subsidies to tax-supported city departments would reveal heavy burdens upon patrons of municipal utility services.

Here is an example of a subsidy which is considered as fully justified under "the social purposes" philosophy of public ownership, but declared to be highly improper and a special privilege, by those who believe that the same standards should be rigidly adhered to by both public and

private utility management under regulation by the public utilities commission.

ONE of the reasons for building a municipal light plant at a certain location in a large city was its proximity to the waterworks pumping station and water intake tunnel. By connecting to this tunnel the light plant could have the benefit of cool water for condensing purposes, and could, of course, escape the construction costs of a separate tunnel system. It thus enjoyed "free" cool condenser water with no tunnel construction costs and only $23,000 expenditure for connecting the plant with the tunnel. The waterworks thus contributed the tunnel costs of the electric light plant condenser water for a period of ten years.

It became apparent later that the waterworks tunnel was not large enough for both light plant and waterworks purposes. Low water in the tunnel shaft bid fair to wreck the pumps in both stations, and in addition, the health commissioner warned against the dangers of warm discharge condenser water being pumped into the public water distribution system. Consequently it was decided to build a separate system for the light plant. The total cost was $234,000. It was just a plain imperative necessity, yet the administration was charged in the public prints with trying to wreck the light plant. The light plant had never paid any of the 10-year tunnel costs for this service to the waterworks. In a 1916 report it refers to this transaction as "some of the advantages which may be gained by the municipal ownership of the utilities through the coöperation of the different departments in a municipality."

The "advantage" was all in favor of 40,000 electric customers; it was all at the expense of 160,000 water customers. It was the 160,000 water customers' money which was taken away from them and given to the 40,000 electric customers. For one who gained the "advantage" four were penalized.

In the following (and concluding) article of this series, MR. WRIGHT *will report the results of his investigations of the causes which have so far prevented municipal plants from coming under state commission regulation.*

Is the Current Economic Trend toward the Prudent Investment Principle of Rate Making?

If it is—as many believe—how will it affect the public utility companies? Are the two opposing schools of thought, one representing the reproduction cost principle and the other the prudent-investment principle, once more about to switch their positions? Certainly the decline in costs of utility plant construction during the past few years has injected an important factor into the controversy. An analysis of the present-day status of this question will appear in the next issue of PUBLIC UTILITIES FORTNIGHTLY*—out June 8th.*

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

HOMER BONE
U. S. Senator from Washington.

"I know of no system of regulation that has ever been successful."

JOHN W. FLANNAGAN
U. S. Representative from Virginia.

"Last year $1 out of every $3 earned went to the support of the governments."

JAMES C. DE LONG
Financial writer.

"Inflation, within prescribed limitations, would appear to improve the prospects of the public utility industry."

W. H. HODGE
Vice president, Byllesly Engineering and Management Corporation.

"If there are good business reasons why the utility should advertise, these, not the policies of the medium, should govern its decisions."

T. BRUCE ROBB
Financial writer.

"Public regulation, as it relates to capital, has broken down because the American people have wanted a transportation system without paying for it."

Gossip of a Customer's Man in Wall Street.

"Calling the public utility magnate to Washington will not be able to find out things about his own company so much as to learn things he knows about others."

GEORGE ROTHWELL BROWN
Newspaper columnist.

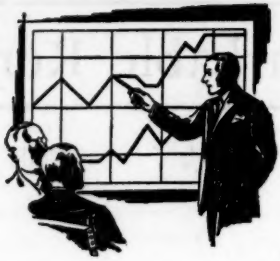
"One wonders in what plight the workers of America would be today if Fulton and Stephenson and Arkwright and Tom Edison had been put on the 30-hour week."

JOSEPH W. MARTIN, JR.
U. S. Representative from Massachusetts.

"If we dedicate the resources of the Nation to building up the Tennessee valley, we have a right to expect the Public Treasury to finance the making of New England and every other section of the country attractive to industry."

MERLIN G. MILLER
Professor at the College of Emporia.

"At its best, regulation means three sets of managers for every utility—its employed officers, the state utilities commission, and the courts. At its worst, regulation means regulation of the utility commission by the power companies."



WHAT THE RECORDS SHOW ABOUT

Rate Reductions by Commissions

A statistical study of commission rate cases which refutes the allegation that the regulatory authorities have been unmindful of the lower trend in costs.

By FRANCIS X. WELCH

On the heels of persistently reiterated charges that state public service commission regulation has "broken down," now come more recent claims that the state commissions do not order utility rates reduced with sufficient frequency, that reduction orders are fewer in number than commission orders which grant rate increases, and that the state commissions have ignored the reduced earning power of utility consumers and to the declining price trends of other commodity costs.

To cap the climax of these charges —which are not based upon facts— an accusation was recently made (during hearings upon a bill in one of the state legislatures for the purpose of increasing the state commission's regulatory powers) that the commissions had "never really reduced utility rates."

The charge was, of course, unfounded. But in an effort to refute it completely, a survey was made of commission cases for a period of slightly more than five years, beginning with 1928 and ending with March 30, 1933. The study was based upon all rate cases published in *Public Utilities Reports* during that period.

The result of this survey effectively disposes of all the foregoing charges against commission regulation. More particularly, this study clearly indicated:

(1) That the commissions have reduced utility rates more often than they have increased them;

(2) That the commissions have denied increases in utility rates more often than they have denied petitions for reductions;

(3) That the ratio of commission rate reduction orders to rate increase orders has been increasing steadily since 1929, until during the first three months of 1933 not a single rate increase was reported.

The survey covers only formal commission orders in which some point of regulatory law was decided; therefore, unfortunately, it does not tell the whole story of the nation-wide rate reductions that have been obtained by the commissions through informal negotiations. It does not include appellate proceedings in state or Federal courts, nor does it include rate cases which were terminated upon procedural or jurisdictional points, or which involved only individual rate classifications not affecting general utility rate structures.

It should be remembered that no unfair inference ought to be made that the number of rate increases indicates any remissness on the part of the commissions in protecting the public interest. As a matter of fact, the commissions were often most vigilant in protecting the public interest when granting a rate increase in whole or in part. The case of *Re* Community Teleph. Co. (Wis.) P.U.R. 1931C, 285, is a typical case in point. Likewise, it should be remembered that a single rate reduction might easily involve more saving to the general public than a large number of smaller and, presumably, warranted increases. For example, the single case of *Re* Rates & Rate Structures (N. Y.) P.U.R.1931C, 337, resulted in a saving to electric customers in New York city alone of $5,500,000 a year. This reduction is now in effect.

Bearing in mind these precautions, the general summary of the rate case study from 1928 to March 30, 1933, is as follows:

Total cases decided	387
" increases	131
" reductions	145
Total increases denied	49
" reductions denied	26
" rate adjustments[1]	36

The year of 1928 was perhaps the height of the "boom" era and in that year increases outnumbered reductions by a wide margin. The summary for 1928 alone was as follows:

Total cases decided	84
" increases	37
" reductions	23
" increases denied	18
" reductions denied	5
" rate adjustments	1

To give a clear-cut picture of the ratio of increases to reductions since 1929 (including that year—the last of the period of "Coolidge prosperity"), let us deduct the foregoing 1928 summary from the foregoing total. The result gives the picture from 1929 to March 30, 1933, as follows:

Total cases decided	303
" increases	94
" reductions	122
" increases denied	31
" reductions denied	21
" rate adjustments	35

Before giving the year-by-year summary, let us remember that these totals include the figures for street railway cases.

There were in all thirty-one street railway cases; nineteen of them resulted in increased rates and only one in a rate reduction. Doubtless, there was good reason for this because of the particularly adverse condition of the street railway industry, and very often these increases were the only alternatives the commissions had to allowing an abandonment of the service. But the large number of street railway cases tends to distort unfair-

[1] Rate "adjustments" applies to cases where the utility rate structure was revised without materially changing the general level of rates either upward or downward.

	1928	1929	1930	1931	1932	1933[2]	Total
Total cases decided	84	75	59	77	79	13	387
" increases	37	35	22	29	8	0	131
" reductions	23	26	17	30	38	11	145
" increases denied	18	6	8	8	9	0	49
" reductions denied	5	5	2	2	12	0	26
" rate adjustments	1	3	10	8	12	2	36

ly the final ratio of averages of increases and decreases involving gas, electric, telephone, and water utilities. Therefore, to give a fairer picture of what happened on the rate case front between 1929 and March 30, 1933, let us eliminate the street railway cases. The result follows:

Total cases decided	269
" increases	74
" reductions	121
" increases denied	25
" reductions denied	19
" rate adjustments	34

The summary, year by year, is given at the top of this page.

It will be noted from the year-by-year tabulation that reductions increased steadily from 1929 to 1933, while increases diminished during the same period showing clearly that the state commissions have been most responsive to the needs of the people for rate relief during the increasing financial stress of the depression.

This record was prepared after each case had been examined and classified; unfortunately, however, there was no way to give in dollars and cents the total amount of savings effected by the rate reduction orders. Three reasons made the finding of this desirable information impracticable:

(1) The commission opinion frequently omitted any summaries of the amount of savings expected:

(2) Such summaries as were given were not uniformly reliable and were frequently only an admittedly rough forecast of "anticipated" revenue:

(3) Commission rate reduction orders have been occasionally vacated or are now restrained pending court appellate proceedings.

All of these factors made the estimation of just how much money has been saved for utility consumers by the commissions a well-nigh impossible task, especially when it is considered that such formal rate reductions represent only one part of the picture and that there is no available method of tabulating the savings effected by informal rate negotiations.

It is evident, from an examination of hundreds of these commission rate cases, that if there were some fairly accurate method for adding up in one column, all of the utility rate increases that the commissions have ever allowed in one year, plus all the direct and indirect costs of commission regulation to the taxpayer, to the ratepayer, and to the utilities, and if this amount could be deducted from the total of utility rate reductions and the amount of attempted rate increases denied by the commissions by formal orders or informal negotiations, it would be found that the commissions have paid for themselves not once but many times over in dollars and cents.

[2] January to March 30, 1933.

What Others Think

How Will Inflation Affect Utility Rates, Revenues—and Security Owners?

FRANCE and other foreign power debtors to the United States were not the only parties who were caught flat-footed by the sudden decision of America to abandon the gold standard. Immediately hundreds of thousands of people who either own utility securities or were thinking about owning them began to wonder just how inflation would affect utility earnings. Immediately, also, economists and financial analysts began to attempt to answer that very question.

The consensus of opinion (based upon this early crop of published expressions on the subject) reveals that inflation, strange as it may seem, has an immediately favorable aspect and may prove a blessing in disguise, however short-lived.

How? In the first place, it should be an effective check on the nation-wide rate reduction revaluation that seriously threatened the utility industries at the time of the gold standard abandonment. With prices of other commodities rising, commissions, it is said, will be less likely to force rate reductions and popular pressure will be less insistent. Over a long range, however, inflation is seen as a dangerous possibility for the utilities whose rates are, of course, pegged by law to a rigid level, while their operating costs will rise with the general swell.

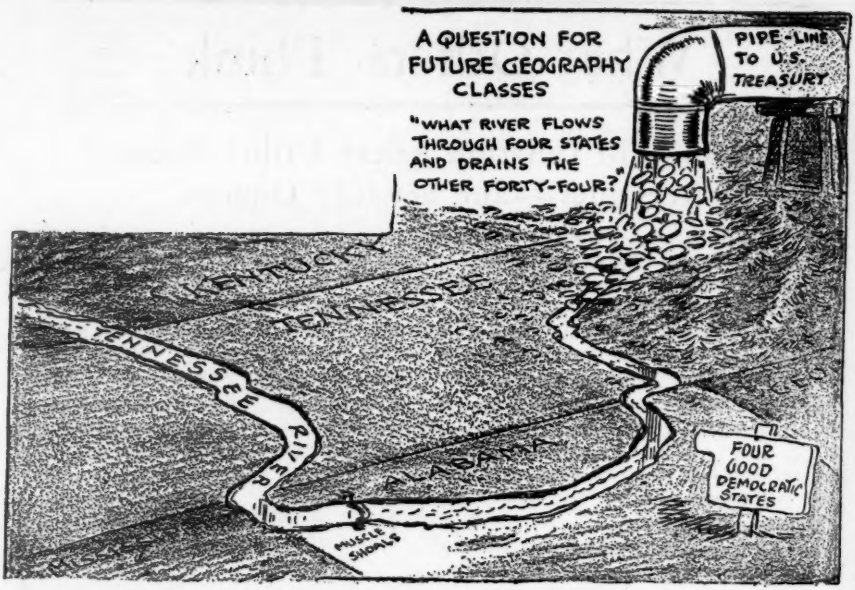
The *Standard Trade and Securities* financial bulletin for April 24th states:

> "Railroad and utility stocks as a group cannot be regarded as well placed to participate directly in any possible benefits to be derived from inflation. The movement now afoot to force wide-scale reductions in electric and gas consumer charges is not likely to be halted unless and until the companies concerned can prove that rising costs of operation are proving a burden. The same may be said in a general way concerning agitation for lower freight rates on certain classes of commodities. On the other hand, proposals to reduce the wages of railway labor and lay off additional workers will presumably meet with increasing opposition. Since the groups concerned are politically powerful, they will be adroit in making use of the argument that further cuts at a time when business improvement is imminent, and when a rise in living costs may occur, would be unjust."

THE subsequent developments, (1) the shift in the 3 per cent Federal tax, and (2) acute rate agitation in New York and Illinois, further darkened the utility security picture, according to the same bulletin dated May 3rd:

> "All divisions of the utility industry have derived some benefit from the improved business sentiment of the past fortnight, although reflection in profits is not yet apparent. Present inflationary tendencies, in themselves, will be of little aid to business; in fact, the traditional result of rising prices is reduced profit margins for companies which operate under fixed prices. Utility rates could hardly be expected to rise in sympathy with other prices, although the clamor for reduced charges would be lessened. Nevertheless, for some time to come the utility industry probably will continue to labor under threats of rate reductions and increased taxes."

Mr. James C. De Long, writing in *The Financial World,* takes a more optimistic view. He claims that those who hold that utilities will be seriously injured by cheaper dollar receipts on the one hand, and increased dollar outlays on the other, fail to recognize the possibilities of increased business for such companies under such a program. Furthermore, he makes interesting comments tending to show that utilities have more resistance to rising expenses than



The Tribune, Chicago

A QUESTION FOR FUTURE GEOGRAPHY CLASSES

other industries. The author states:

"In the average electric light and power company, only about 31 cents of each revenue dollar received is spent for supplies and materials, labor and fuel, exclusive of freight. These items are the only ones which would be appreciably affected by an increase in the general price level. In the matter of wages, which take about 15 cents of each revenue dollar, the industry could withstand considerable inflationary steps without increasing dollar compensation of employees. While wages in the electric light and power industry have been reduced moderately during the past three years, the wage scale is much higher in this industry than in many others so that general wage increase which might follow from inflation would not be quickly reflected in the utility field. As an electric power and light system must operate twenty-four hours per day even under depression conditions, the industry has been forced to maintain the bulk of its personnel intact; a considerable increase in demand would have to develop before the industry would be forced to increase its staff and payroll.

"Fuel costs in a steam plant consume about 11 cents of each revenue dollar. However, of this amount about 5 cents represents freight. Freight rates are in the same category as utility rates, any increase in which would lag materially behind other commodities and services. Furthermore, those companies with large hydroelectric facilities would not be affected by increased fuel costs; in 1932, 39 per cent of all electric energy generated in the United States was hydroelectric. Many companies, including the Pacific Coast group, Commonwealth & Southern and Niagara Hudson Power, are preponderantly hydroelectric.

"Costs of materials and supplies, which represent about 10 cents of each revenue dollar, would go up, of course, under an inflation program but here again the rise would be mitigated by special circumstances. Physical equipment of a utility plant has come down in price but little during the past four years—in fact only about 10 per cent from 1929 levels—so that little increase would be warranted at present. Copper prices will undoubtedly rise, but this item represents only about half a cent of each revenue dollar.

"It is thus seen that while certain utility expenses would be affected by changing the dollar's purchasing power, those items of expense bulk small in comparison to the total and are of such a nature as to lag

behind any general increase in the price structure. The probabilities are that a general price increase of as much as 25 per cent could take place without materially affecting operating costs of the utilities."

THE financial weekly *Barron's* is likewise bullish on utilities over a long range of inflation. It reminds us that the public utilities may pay off bond indebtedness with cheaper dollars. It states:

"If the utilities should be required to pay their bond obligations in gold or the equivalent of the old dollar while receiving their income in depreciated currency, they would stand to lose heavily, since rates in all probability could not be adjusted upward to compensate for the increased burden of debt which devaluation would entail. The best opinion seems to be, however, that the gold clause would not be legally enforced.

"If inflation did not involve devaluation but merely credit expansion, and if the rising price level should bring the hope for improvement in general economic conditions, the benefits to the utilities should greatly outweigh the disadvantages. If prices go up, operating expenses would also rise because of the increased costs of labor, fuel, and construction material. But the contraction in business and loss in operating revenues that have accompanied the decline in prices during the past three years have far outrun the saving in operating expenses, and, as a result, the equity earnings of the entire industry have been slipping away at an uncomfortably rapid rate. In this connection, it is important to remember that the capital investment in the utility industry is exceedingly large in relation to the annual volume of revenue which the property produces, and interest charges, which constitute an important part of a utility's expenses, remain fixed regardless of fluctuations in the price level. From what has happened to utility earnings in the past few years, it is readily apparent that if a rise in prices bring a commensurate gain in business activity, the expansion in volume of revenues resulting therefrom will more than compensate the utilities for whatver increase occurs in operating expenses."

THE question may be raised by those who remember the "emergency relief" utility rate increases during the war period, why similar relief could not be vouchsafed the utilities if the current inflation swell produces acute distress in utility net earnings. Unfortunately, the complexion of the present situation is wholly changed from the war days. The legal machinery for such relief is still available to be sure, but the state commissions, already under terrific pressure from public opinion to force rate reductions during the depression, are certain not to be as sympathetic to such "emergency increase" petitions as they were in 1918 when it was almost a patriotic duty to keep the wheels of all business turning as effectively as possible.

—M. M.

RAIL AND UTILITY SHARES. *Standard Trade and Securities.* April 24, 1933.

UTILITIES. *Standard Trade and Securities.* May 3, 1933.

WILL INFLATION RETARD THE UTILITIES? By James C. De Long. *The Financial World.* May 3, 1933.

EFFECT OF INFLATION ON UTILITIES. *Barron's.* May 1, 1933.

Are the Problems Facing the Utilities Due to Lack of Perspective on the Significance of Current Trends?

RECENT revelations concerning the conduct of some of our American bankers and other erstwhile industrial leaders have suddenly brought our business men face to face with the fact that while they have been lambasting the "deplorable lack of political leadership" during the dark days of the depression, they themselves have been residing in vulnerable glass houses. Now comes Dean Wallace B. Donham of the Graduate School of Business Administration of Harvard University who tells that the failure of business leadership has been partially responsible for the state of affairs existing at Washington

The Knoxville, (Tenn.) News-Sentinel

HEARTBREAK

and in our state capitals prior to the New Deal.

Dean Donham diagnoses the difficulty as a lack of vision on the part of our business leaders and statesmen alike—a lack of a detached viewpoint by those in command which would coördinate the duplicate and often conflicting forces of individual industries. His observations are well worth the consideration of the public utility leaders. He tells us that "business men handled the affairs of their particular companies in most cases with amazing skill, but in the larger aspects of the depression, business men, politicians, and university professors almost universally assumed that things would right themselves."

In other words, in the great symphony of American commerce, every business played its own instrument with the gusto of a virtuoso but none appeared to notice that there was no conductor.

For this, Dean Donham tells us, business is more to blame than politics because, in this country at least, the former attracts and the latter repels the flower of our intellectual youth. Dean Donham states:

> "The difficulty lies mainly in overspecialization. It is no one's business to consider things in their relations. We build great industrial corporations which introduce amazing novelties into life. Their executives behave first, last, and nearly all the time as if their companies had no function except to manufacture and sell. They have fine understanding of their own business, too little grasp of their industries as a whole, almost none of the relation between their particular interests and our general social and economic structure, and far too little grip on the social consequences of their activities. We create great banks. Their leaders too often know little beyond finance. When, through intrusion of new social and economic forces, thousands of banks fail, they and the community think of improving the management of banks rather than of restoring social equilibrium. Yet lost social equilibrium rather than bad management accounts for most bank failures. . . . Business men do not undertake the hard intellectual job of securing general grasp of these complex problems through prolonged exchange and harmonizing of varied viewpoints. Most men think their duty done when they discuss one-sided presentations of narrow controversial topics. The tough study of relations out of which wider syntheses might come is not attempted. Efforts to induce groups of men to study broader problems repeatedly fail, because nothing in the previous experience of the individual business man gives him assurance in his capacity even to think of these things. Under such conditions it is no wonder that leadership fails."

The curse of overspecialization should be no novelty, but it gives one pause to find such frank recognition of the effects of machine age education coming from the lips of a dean at Harvard University. Dean Donham makes no bones about the matter but lays the blame directly and bluntly at the door of our educational system. Our universities have overtrained our young men along the lines of specialized knowledge and undertrained them in the field of general observation and coördination. They have, in plain words, taught our lawyers to be merely lawyers, our doctors to be merely doctors, and, unfortunately too often, our economists to be mere apologists for whatever industry or interest cares to employ them.

Dean Donham does not tell us whether or not the existing generation of American business men can be saved. But if general education is good for the youngster, it seems reasonable enough to assume that intelligent self-education might not be amiss for their now practicing fathers in commerce. Perhaps a broad and critical reëxamination of the leading issues in the regulatory field, for instance, in the manner essayed by independent journals, might well come under the head of unfinished business for many a puzzled utility executive.

ERNEST F. DuBrul, writing in the intellectual Catholic weekly, *The Commonweal*, on the subject of private ownership, advances an interesting proposition that also bears upon the current problems of the utilities. Just as Dean Donham would cure the overgrowth of specialized education by harking back to fundamental liberal education for our American youth, Mr. DuBrul would cure the overgrowth of our corporations by harking back to the small home-grown corporate units from which they sprung.

Alarmed at the increasing control of American property and the destruction of "private ownership" by the ever-growing corporate Frankensteins of American commerce, Mr. DuBrul concurs in the recent studies of such corporate monopolies by Professors A. A. Berle, Jr., and Gardiner C. Means, of Columbia University, and Professor Maurice Wormser, of Fordham University. He further believes that unless this swelling corporate girth is checked, the "investors" will be at the complete mercy of corporate management. Ownership of private property, as such, he

finds, is disappearing in the face of this corporate trend. He says "it is a disagreeable reality that no one who buys a stock certificate is investing in property—at best it is only speculating on income." Those who think that present-day corporate ownership is the same as private ownership, therefore, are merely deluding themselves. It is instead the inevitable forerunner of government ownership—the intermediate stage by which all property is gathered into a comparatively few sources of control just prior to the final and inevitable step of complete nationalization of property. It is a sort of modern industrial feudalism crushing out individual ownership only to expire itself in the arms of modern industrial imperialism.

Mr. DuBrul's remedy, however, is the most interesting part of his message. He says:

> "It is strange that those who recognize the evils of our present corporationism but fear the evils of socialism seldom think of back tracking to smaller corporations. Too many people think that this back tracking is simply out of the question. Yet corporations are creatures of the state, made by public law, and there is ample power in the legislatures and in Congress to break them down to sizes which will not be socially dangerous. Under the Constitution, Congress has wide powers to regulate commerce between the states. Under this Constitution, Congress can declare it contrary to public policy to allow corporations to grow too large for the public good. Congress can, when the people choose, declare what degree of size a corporation shall be allowed to attain or retain. Under the Interstate Commerce clause, the Congress has ample power to forbid interstate transportation of products of corporations which are now too large for public welfare.
>
> "Corporations, as creatures of law, can be confined by the law which made them to operating only one plant instead of being allowed to agglutinate a multitude of plants. Under the Income Tax Amendment, Congress has power to levy such progressive surtaxes on large corporation incomes as will make it unprofitable for them to continue to be too large. Levying such taxes would soon lead to their split up into smaller units. Such split-ups have been made under the antitrust laws, in the tobacco and oil cases. Cutting down corporation size is easier than trying to regulate them. It would require an enormous bureaucracy to try to regulate the many businesses which employ the great mass of workers."

Mr. DuBrul's mention of the tobacco and oil prosecutions under the Sherman and Clayton Acts brings to mind what is probably the greatest objection to his plan. Could it ever really work? It has been often repeated that the Supreme Court cut all the arms off the old Standard Oil octopus, and that each arm grew into a new octopus. Further than that, how would coördinated management of our different telephone companies, for example (so necessary for the present efficiency of our long-distance service), be possible without some form of common control, such as exercised by the American Telephone and Telegraph Company? Incidentally, Mr. Hitler is at present attempting to "back-track" in Germany by breaking the back of the chain-store organizations there in favor of the traditional local father-to-son commercial management of pre-war Germany. Will he or can he succeed in reversing the tide of commercial development that for four decades, at least, has been flowing in the opposite direction, or is his task as hopeless as King Canute's command to the waves of the sea? Most of us, while open to convictions, probably have our misgivings about the feasibility of "back-tracking."

—F. X. W.

THE FAILURE OF BUSINESS LEADERSHIP AND THE RESPONSIBILITY OF THE UNIVERSITIES. Address by Dean Wallace B. Donham, delivered at the Opening Meeting of the Twenty-fifth Anniversary Celebration, Graduate School of Business Administration, Harvard University, Cambridge, Mass. April 10, 1933.

PRIVATE OWNERSHIP. By Ernest F. DuBrul. *The Commonweal.* April 19, 1933.

¶ "THE UTILITY FRANCHISE MUDDLE: WHAT OUGHT TO BE DONE ABOUT IT." *Under this title* DAVID L. BABSON *will report the results of his study of this important subject, extending over a period of several months. In the next issue of this magazine.*

The Origin of the Uniform Classification of Accounts Observed by the Electrical Utilities

REPERCUSSIONS are still being felt from the Morris Llewellyn Cooke article published last December in *The New Republic* entitled "Paying Too Much for Electricity," some of the statements in which have already been noted in these pages. Another one of these statements was challenged by a New York city engineer, H. C. Hasbrouck, in the April 19th issue of *The New Republic*. Mr. Hasbrouck referred to Mr. Cooke's charge that "it is well known that the Uniform Classification of Accounts required of electric companies by state public service commissions originated with the National Electric Light Association." Mr. Hasbrouck stated:

> "That the Uniform Classification of Accounts for electrical utilities originated with the National Electric Light Association is not 'well known' because it is not a fact. The assertion that it is the fact has often been made by persons who assume that usage which runs counter to their pet theories must have a selfish and sinister origin. The history of the approval of the Uniform Classifications of Accounts for electrical and gas utilities by the National Association of Railroad and Utilities Commissioners and the subsequent adoption of those classifications by a large majority of state regulatory commissions is readily available and the failure of Mr. Cooke to verify his allegation must cast serious doubt on the accuracy of many of his other statements.
>
> "The Uniform Classifications of Accounts now in most general use for electric and gas utilities were drafted after many months of hard study and discussion by the Committee on Statistics and Accounts of Public Utilities of the National Association of Railroad and Utilities Commissioners. As a member of that committee, and the chairman of the subcommittee which prepared the final draft submitted to the convention of the National Association in 1920, I can say, without the slightest reservation, that the ideas and principles contained in it represented the best thought, at the time, of the commission accountants who made up the committee and who signed the report recommending the Classification to the National Association. It is true that the commission accountants consulted with accounting committees of the American Gas Association and the National Electric Light Association and in many cases followed their suggestions. To have done otherwise would have been the height of stupidity. But I repudiate indignantly any implication that the members of the Commissioners' Committee, some of whom are still serving honorably the state commissions which they then represented, were so careless or foolish as to accept, without adequate criticism, any suggestion that a public-utility accountant wanted to offer."

IN his reply, published in the same issue of *The New Republic*, Mr. Cooke gave scant heed to any presumable honesty or sincerity of either Mr. Hasbrouck or the National Association of Railroad and Utilities Commissioners; his comments follow:

> "Since the publication of my article on retail rates the National Electric Light Association has become *in articulo mortis* and men of good will would naturally prefer to remain silent during the final obsequies. As a close observer of N. E. L. A. techniques during the last twenty years it never occurred to me that in saying the present Uniform Classification of Accounts 'originated with the N. E. L. A.' any formal proceedings or ceremony were implied. When yet a lad I observed that the weasel does not sing when he sucks an egg. In view of the price which this Uniform Classification of Accounts has cost the American people, and the present-day informed attitudes toward it, no one desiring to claim parentage need be challenged. This classification will not be long with us.
>
> "Times have changed. We do not look at utility matters quite so complacently as formerly. Even the acts of the National Association of Railroad and Utilities Commissioners are no longer accepted as necessarily *pro bono publico*. Not many months back a group of members including Kronshage, Maltbie, and Seavey, chairmen respectively of the Wisconsin, New York, and California commissions, charged that 'regulation in the several states is being seriously imperiled by the present conduct of the affairs of the National Association of Railroad and Utilities Commissioners.' This association actively opposed before the Congress the investigation of the electrical industry now being conducted by the Federal Trade Commission."

It would appear that Mr. Cooke contends, in other words, that the fact that

there is no tangible evidence of improper relations between the National Association of Railroad and Utilities Commissioners, is not to be taken as an indication that such relations do not exist, but rather as proof that its existence is all the more insidious.

—F. X. W.

CORRESPONDENCE. *The New Republic.* April 19, 1933.

Practical Aspects of Utility Rate Structures

LUTHER R. Nash presents his new volume on public utility rate structures as "a reference book for rate designers, executives, and students." I strongly recommend it also to lawyers, public service commissioners, economists, public officials, and legislators who are interested in utility rates. No book, in my opinion, has ever even approached it in its field.

The book is not written by a professor who has given the subject some consideration for a few months, nor by a lawyer who may tend to think of utility rates from the legal standpoint; neither has it been written by one who has approached it solely from an engineering or statistical viewpoint. It is written by one who has had years of practical experience in the design and application of successful rates and in the handling of rate cases before public service commissions. He understands the political viewpoints involved as well as the economic fundamentals.

Mr. Nash's experience in the study of the fundamental considerations affecting utility rates has led him to certain conclusions. In his discussion of the distinctive character of public utility service as differentiated from ordinary industrial enterprises, he points out:

> ". . . that a large proportion of the cost of (utility) service is independent of the particular units of service sold and that any rate structure which does not recognize this fact cannot be consistent with cost. If this fact is ignored in the rate structure certain customers will pay less than the cost of serving them and others will pay more, unless the resulting rates are so high to the latter (usually large power customers) that they find it costs them less to supply their own requirements."

Mr. Nash notes the inevitable result when he says:

> "It is safe to say that if an electric company undertook to sell its entire output for lighting, power, and other service at a uniform rate per kilowatt hour, something like one half the kilowatt hours otherwise sold would disappear from the system and would be supplied from isolated plants. It is obvious that the cost per unit for the balance of the service would be radically increased."

A FURTHER conclusion set forth by Mr. Nash is one which is too often lost sight of, not only by public officials but by executives of the utilities themselves:

> "In spite of the recognized equity of promotional rates and the obvious advantages of a schedule embodying low stated top rates and attractive follow-on rates, there is not infrequently a yielding to political pressure to retain older forms of rates with reduction in the top rate when curtailment of revenue is permissible. That such reductions in top rates are not to the advantage of either customers as a whole or utilities has been shown by careful analysis of the relative stimulating effect of rate reductions in various forms."

Mr. Nash emphasizes this point when he says:

> "It follows, therefore, that every reduction in top rates below conventional standards is a distinct obstacle to the ultimate substitution of a promotional form of rate."

Mr. Nash frankly and courageously meets the question of the relation of the declining commodity prices and public utility rates; his discussion of this critical problem of regulation is most interesting. His conclusion is:

> "It follows that present demands for rate reduction should be met with the frank statement that utilities which have been denied the advantages that other industries

enjoy in prosperity should not be called upon to share in the burdens of depression."

—FRANK A. NEWTON

PUBLIC UTILITY RATE STRUCTURES. By Luther R. Nash. New York: McGraw-Hill Book Co., Inc. 380 pages, 1933. $4.00.

Recent Utterances of Congress about the Utilities

In the Senate

ST. LAWRENCE WATERWAY TREATY

SENATOR Long (D.), of Louisiana, and Senator Copeland (D.), of New York, spoke against the ratification of the proposed treaty with Canada for the development of the St. Lawrence waterway, chiefly on grounds that it would create ruinous competition with established port cities of the United States.

HOLYOKE'S MUNICIPAL PLANT

SENATOR Clarence C. Dill (D.), of Washington, obtained leave to publish in the *Record* an article which appeared in *Public Ownership*, a monthly magazine, written by John J. Kirkpatrick regarding the operation of the municipal gas and electric light and power plant of Holyoke, Mass. The article was written on the celebration of the municipal plant's thirtieth birthday and pointed out that the city had paid for $5,300,000 worth of utility projects which were financed wholly out of earnings. The present annual earnings of the various utility properties were placed at $1,190,000 and it was claimed that not a "single dollar of taxes" was used either in capitalization or operation. The utility claims that it has the lowest electric rate in the state of Massachuetts—4 cents for the first 100 kilowatt hours and 3½ cents thereafter. (*March 31, 1933.*)

MUSCLE SHOALS

ON April 10th, Vice President Garner laid before the Senate a message from the President urging the enactment of legislation for the development of the Tennessee valley, including the Muscle Shoals power project. (*April 10, 1933.*)

On May 1st, Senator Norris (R.), of Nebraska, called up his own Muscle Shoals bill and offered several minor amendments in the course of the subsequent debate. The debate continued on May 3rd when Senator Bankhead (D.), of Alabama, proposed an amendment which would substitute for the fertilizer clause in the Norris bill the corresponding provision contained in the measure passed by the House of Representatives. The amendment was defeated 73 to 12. On May 3rd, also, Senator Bankhead (D.), of Alabama, offered an amendment to modify the Norris bill so as to provide for possible private operation of transmission lines, as provided in the measure passed in the House of Representatives. The amendment was rejected. The bill was finally passed by the Senate on May 3rd by a vote of 63 to 20. (*May 3, 1933.*)

CHAMBER OF COMMERCE

ON May 4th, Senator Norris (R.), of Nebraska, attacked the United States Chamber of Commerce as being a tool used in the interest of the power trust. (*May 4, 1933.*)

In the House

MUSCLE SHOALS

ON April 10th, Speaker Rainey laid before the House a message from the President urging the enactment of legislation for the development of the Tennessee valley, including the Muscle Shoals power project. (*April 10, 1933.*)

On April 22nd, the House debated the resolution for the immediate consideration of H.R. 5081 providing for the development of the Tennessee valley and Muscle Shoals power project. Mr. Pou (D.), of North Carolina, conducted the debate for the measure while Mr. Ransley (R.), of Pennsylvania, spoke against the measure. In the debate upon the measure itself, Mr. McSwain (D.), of South Carolina, and Mr. Hill (D.), of Alabama, spoke for the measure. Mr. Treadway (R.), of Massachusetts spoke against the measure condemning the Muscle Shoals power project itself as a matter of unsound economy. He said, "my opposition is based not only on the fact that I am against government competition with private business as a matter of principle, but on the further fact that it would mean the expenditure of millions of dollars more on properties which have already cost the taxpayers of this country $150,000,000 without any return." (*April 22, 1933.*)

On April 24th, the House continued its discussion of the Muscle Shoals project. Mr. McFarlane (D.), of Texas, spoke in favor of governmentally controlled power operations pointing to the alleged success of municipally owned power plants in his own state.

Mr. Turner (D.), of Tennessee, also spoke in favor of the measure and stated that the private power interests feared that the "people of the entire United States will have a great scale illustration of the cheapness of the cost of construction and distribution of power and fertilizer so they have not and do not spare effort or expense to kill every attempt to develop it." He declared that the power companies have spent millions of dollars in propaganda to defeat such legislation. Representative Goss (R.), of Connecticut, speaking against the measure condemned the extent of the powers that would be given to the Muscle Shoals board. He concluded that from testimony adduced before the House Committee and from the speeches of the proponents of the bill, the government "may be obligated for $700,000,000 and upward." Representative Thomason (D.), of Texas, disputed the size of the figures stated by Representative Goss. Representative Pierce (D.), of Oregon, pointed to the value of the Muscle Shoals project as a "yardstick" for future determination of the reasonableness of rates for power in the United States. Representative Dirksen (R.), of Illinois, spoke against the measure and declared that no evidence brought forth to date had indicated that there was any need for electric power in the Tennessee valley. (*April 24, 1933.*)

COST OF INLAND WATERWAYS

REPRESENTATIVE Joseph J. Mansfield (D.), of Texas, obtained leave to insert in the *Record* certain factual data purporting to correct alleged misstatements of fact as to the cost of inland waterways contained in the recent report of the National Transportation Committee headed by the late ex-President Coolidge. Representative Mansfield stated that while he concurred with much that was said in the report, especially in the minority report by former Governor Alfred E. Smith of New York, the alleged cost to the government of the operation of inland waterways had been greatly exaggerated. The report had claimed that inland waterways had cost the government on an average of $100,000,000 a year. Representative Mansfield pointed out that the appropriation for the year 1933 was only $39,418,129. (*March 15, 1933.*)

POWER TAX SHIFT

ON April 20th, Representative Whittington (D.), of Mississippi, moved to amend the bill (H. R. 5040) to extend the gasoline tax for one year, to modify postage rates on mail matter, and for other purposes, so as to provide that the 3 per cent Federal tax on electrical energy should be collected from the producer instead of collected by the producer and paid for by the consumer of electrical energy as heretofore provided. The amendment was adopted by a vote of 138 to 86. (*April 20, 1933.*)

ST. LAWRENCE WATERWAY

ON April 25th, Representative O'Connor (D.), of New York, called up a resolution concerning the treaty with Canada on the St. Lawrence waterway. During the debate, the New York delegation discussed the respective rights of the state of New York, the Federal government, and the Dominion of Canada in the proposed St. Lawrence development. (*April 25, 1933.*)

Other Articles Worth Reading

OPPOSE PENSION LEGISLATION: Railways make specific objection to Wagner and Hatfield bills. *Railway Age.* January 21, 1933.

RAILROADS AND TRUCK COMPETITION. By C. M. Hammond. *The Texas Weekly.* March 11, 1933.

RESIDENTIAL ELECTRIC RATES IN WISCONSIN: A STATEWIDE PICTURE. By E. W. Morehouse. *The Journal of Land & Public Utility Economics.* February, 1933.

THE ALABAMA GHOST. By Morris Markey. *The American Magazine,* May, 1933.
What the revival of interest in Muscle Shoals and its 260,000 sleeping horses may mean.

THE CHALLENGE OF MUSCLE SHOALS. By Benton Mackaye. *The Nation.* April 19, 1931.

THE ELECTRICAL REVOLUTION. By Jerome Count. *The Nation.* April 26, 1933.

THE FUTURE OF TRANSPORTATION. By A. Lloyd Wilson. *Social Science,* Spring Number, 1933.

THE ORGANIZATION AND PERSONNEL OF THE NEBRASKA RAILWAY COMMISSION. By L. L. Durisch. *The Journal of Land & Public Utility Economics.* February, 1933.

WHAT'S WRONG WITH THE PUBLIC UTILITIES? By Francis C. Fullerton. *The Magazine of Wall Street.* April 15, 1933.

The March of Events

Securities Bill Provides Limited Exemption of Utilities

BOTH the Senate and the House on May 8th had approved bills for the regulation of securities along the lines recommended by President Roosevelt. Certain types of securities are exempted, including securities of public utilities operating under the regulation of a Federal body. Securities of public utilities operating solely within the jurisdiction of state commissions are not, however, exempted.

Both the Senate and the House made several changes in the original bill, and they were expected to reach an agreement in conference.

The purpose of the bill is to furnish prospective investors with accurate information on issues offered for public subscription. Directors and officers would be required to guarantee the truth of the information required by the government under pain of civil suits and criminal liabilities.

New York Curb Inquiry Turns to Utility Issues

ATTORNEY General Bennett's investigation into practices of the New York Curb Exchange in admitting securities to unlisted trading privileges was resumed on May 2nd when the inquiry turned to dealings in Central Public Service Corporation issues. George D. Woods, vice president of Chase Harris Forbes Corporation, was the first witness. Examination of Mr. Woods brought out the fact that Harris Forbes & Company, West & Company, Federal Securities Corporation, and H. M. Byllesby Company had entered into a contract with the Central Public Service Corporation for the sale of 60,000 shares of Class A stock and at the same time obtained options to buy 40,000 shares of the company's $6 preferred stock and $25,000,000 of its 5½ per cent convertible debentures due in 1949.

Subsequently, the group exercised its option to buy both the preferred and bond issues. The preferred was purchased at $90 a share and accrued dividends in February, 1929, and was offered to the public at $95 a share and accrued dividends. The debentures were purchased shortly after the preferred at $91.50 a share and offered to the public at $96.50 a share.

The next hearing in the investigation was scheduled for May 16th.

Quebec Permits Export of Energy to Block St. Lawrence Waterway

AFTER banning the export of hydroelectric power for six years, the Province of Quebec has changed its policy and taken down the bars, according to *Business Week*. Negotiations are now under way with New York state and New England systems for the sale of surplus power. But American power systems also have a surplus and the hopes of the Quebec authorities that they may obtain $600,000 a year from this source will not soon be realized. The government would collect a royalty of $2 a unit on the sales of the operators, an income which is estimated at $3,750,000.

The *Business Week* stated that there were two reasons behind this new legislation: (1) during the last three years the demand for power in Quebec has not kept pace with the increase in generating facilities; (2) the province is opposed to the development of the St. Lawrence waterway program because it would divert traffic from the ports of Quebec and Montreal. Premier L. A. Taschereau now offers the United States 250,000 to 300,000 horsepower without development cost and hopes that it will prove to be a telling argument.

Roosevelt Railroad Plan Given Congress

SPEEDY enactment of legislation which would provide a three-point emergency program for rehabilitation of the nation's railroads was asked by President Roosevelt on May 4th in a special message to Congress. President Roosevelt, declaring that he was not yet ready to submit a plan for permanent legislation, recommended the following "emergency steps":

1. Repeal of the recapture provisions of the Interstate Commerce Commission Act, repeal to be retroactive.

2. Placing of railway holding companies definitely under the regulation and control of the I. C. C.

3. Creation of a Federal coördinator of transportation.

Just as President Roosevelt's message arrived at the Capitol, Chairman Rayburn of the House Interstate and Foreign Commerce Committee made public the legislation which is proposed by the administration for the carrying out of its emergency proposals.

French Government Railroads Show Big Deficit

THE French government railway bill tabled in the Chamber of Deputies shows that the French railways are adversely affected by economic conditions to an extent perhaps unequaled elsewhere, according to a London dispatch of April 22nd to the New York *Times*. Of a deficit of 15,000,000,000 francs incurred in the last ten years, more than 9,000,000,000 francs represent the losses of the last three years, and it is estimated that the railroads are losing at the rate of about 10,000,000 francs daily. Both freight and passenger service seem to have suffered in about equal proportion.

The French railways have had to face continually increasing competition from the highway. There are in France today some 1,800,000 motor cars, of which at least 450,000 are lorries or light vans and the number is increasing daily.

Alabama

Municipal League Urges Utility Rate Cuts

AFTER calling upon the Alabama Public Service Commission to lower utility rates, and electing W. W. Ramsey, of Russellville, as president, the Alabama League of Municipalities on April 21st closed its 2-day convention. The request for lower utility rates came in the adoption of a resolution by Mayor Harry T. Hartwell, of Mobile. It stated that whereas prices of all commodities have been materially reduced, as well as incomes and wages, and whereas utility rates continue at "peak prices," the commission should give immediate relief from "existing excessive charges."

Investigation into Telephone and Power Rates

THE Alabama Public Service Commission, satisfied that sufficient grounds exist to warrant a hearing, called upon the Southern Bell Telephone Company on May 1st and the Alabama Power Company on May 3rd to show cause why their rates in Alabama should not be reduced. The hearing will be held in Birmingham beginning June 6th.

California

Assembly Votes Rate Cut; Senate Puzzled

THE California assembly on April 22nd voted for an emergency measure which would effect a 20 per cent reduction in gas and electric rates for one year. By a last-minute amendment, telephone rates also were included. The rate reduction bill was introduced by Assemblyman C. Ray Robinson, who voted against the equalization bill, under which utilities' taxes would be raised about $12,000,000 during the next two years. Opponents declared Mr. Robinson's measure was prompted by the twofold purpose of justifying his vote against equalization and the attempt to defeat equalization.

The California senate, meanwhile, was trying to decide on April 24th whether to lower utility rates or raise utility taxes. The San Francisco *News* of April 24th stated that it was admitted by all that the assembly made it difficult for the upper house to tackle the tax equalization problem when the former voted for the 20 per cent utility rate cut. As a result, the Clowdsley bill pending in the senate to force utility corporations to contribute the $12,000,000 more for the upkeep of state government was at a standstill.

Colorado

Legislators Must Pay Own Phone Bills

A MOVE to force payment by state legislators of expensive long-distance calls which have been charged to the state was under way in the general assembly on April 14th. All toll charges accepted by members of the general assembly for state payment have been under careful scrutiny following revelations that nearly $4,000 worth of long-distance time

has been spent at the expense of the taxpayers during the first three months of the current legislative session of the general assembly.

District of Columbia

House Committee May Probe Washington's Utility Rates

THE scope of the investigation which a special subcommittee of the House of Representatives District Committee is to make of District affairs may be broadened to take in utility rates and powers of the local public utilities commission, it was indicated on May 2nd by Representative Vincent L. Palmisano (D.) of Maryland, chairman. Representative Palmisano has had several requests to consider utility rates, particularly those relating to electric, gas, and telephone rates. He also has been requested to extend the investigation so that the subcommittee can weigh proposals to give the public utilities commission additional powers to regulate taxicabs and fix rates. He expected to call his subcommittee together as soon as the resolution authorizing an appropriation for expenses is passed.

Florida

State Gathering Phone Rate Data

A GENERAL statewide investigation of telephone rates is under way on the part of the Florida Railroad Commission which is expected to result shortly in the holding of public hearings on the complaints of several Florida cities, according to a news item published in the Miami *Daily News* of April 24th.

Illinois

Chairman Asks More Power for State Commission

DRAFTS of new laws giving the Illinois Commerce Commission greater powers and wider latitude in regulating public utility rates were prepared May 1st for the chairman of the commission, Benjamin F. Lindheimer, who took them to Springfield, where he will ask the legislature to pass them. Concurrence is expected, according to a news item in the Chicago *Daily Tribune*.

As explained by Mr. Lindheimer, the bills prepared are in several sections. After their passage a program of utility rate revision is to get under way. The first bill would give the commission jurisdiction over subsidiaries, affiliates, and holding companies of public utilities. Another bill would prevent any public utility, directly or indirectly, from making any investments, loans or advances of money to any person or corporation without the permission of the Illinois Commerce Commission.

Another provision in Mr. Lindheimer's proposed legislation is one requiring the utility companies to pay all costs of investigations pertaining to revision of rates. The companies would be required to create a revolving fund from which all costs of making surveys to determine the value of the property would be paid. A separate section would empower the commission to fix temporary rates pending a full hearing on any petition to reduce or increase them. As the law now stands the commerce commission may not order a rate change until after investigation and hearing.

Mr. Lindheimer would also have the legislature empower the governor to require action at any time by the commission, a power now held only by the legislature.

Meanwhile, negotiations for the reduction of public utility rates were begun by the commission in Chicago when representatives of seventeen electric companies appeared before the commission to show cause why the rates

should not be reduced. Representatives of ten other electric companies were expected to appear before the commission in Springfield early in May.

Iowa

Date Set for Municipal Plant Vote

THE city council of Clinton on April 18th decided to call a special election June 20th when voters will decide on the question of erection of a municipal gas, electric, and power plant under the Simmer law. The council's action followed refusal of the Interstate Power Company to reduce residential lighting rates from 8 to 6 cents a kilowatt hour. Mayor Harry Bulow criticized other local utility companies for maintaining high rates, but declared himself against entering into expensive court fights to obtain reductions.

Kansas

Commission Bans Transportation Passes

ASSERTING it had learned of "gross and wholesale abuse" of railroad and bus pass privileges under the old state public service commission, the new corporation commission announced on May 1st that it would have a thorough "house cleaning" in the matter of free transportation for state employees. Chairman Homer Hoch said, in a statement to the press on that date, that the commission had learned that as many as forty persons held annual railroad or bus passes in the name of the recently abolished regulatory body. Further than that he stated that "trip passes" were asked and received into the hundreds. They had been secured not only for employees of the commission, but for other employees of the state connected with the commission in no way.

Kentucky

Utility Attacks Municipal Plant Establishment

A SUIT was filed on May 1st in the Bourbon circuit court by the Kentucky Utilities Company against the city of Paris and Fairbanks-Morse & Company, of Chicago and Cincinnati, seeking to set aside the contract awarded by the city to Fairbanks-Morse & Company for the construction and equipment of a city-owned electric power and light plant in Paris. The utility company seeks also to enjoin the defendant from the construction and equipment of the plant, although application for a temporary restraining order has not been issued. The utility company alleges in the suit that the city-owned plant will not be adequate to supply the needed electric current in Paris, and also that the city will put the utility company out of business.

This is the fourth suit which has been instituted in the legal battle between the utility and the city of Paris over the establishment of a city-owned plant, the city having won all previous suits.

Louisville Gas Rates Attacked in Court

THE opening joust in the campaign of the Louisville Gas & Electric Company to prevent the enforcement of the rates for gas and electricity recently provided by the Louisville board of aldermen from becoming effective resulted in the granting by Federal District Judge A. M. J. Cochran at Maysville on April 28th of a temporary restraining order preventing the city's electric rates from becoming effective. The company was required to post a $10,000 bond to protect consumers against any loss in the event the company loses the case. Judge Cochran fixed June 9th in Louisville as the date for hearing on the company's petition for a temporary injunction.

Maryland

Regulatory Short Cut in Phone Rate Case

IN a telephone rate case which opened on May 2nd, the Maryland Public Service Commission made a notable departure in the technique of public utility regulations, according to the Baltimore *Sun*. Instead of undertaking a detailed physical inventory of the company's plant and equipment to determine the "fair valuation" on which the courts uniformly hold the company is entitled to a "fair return," the commission indicated that it would rely primarily upon index numbers showing the general course of costs and prices since the last physical valuation, to arrive at the present valuation.

Heretofore the commission has, in rate cases, introduced material of this sort, but in conjunction with detailed inventories of the property involved. In the telephone case, however, its showing as to the present value of the property is to be based in far larger degree on index number calculations. If such a method of arriving at changes in public utility valuation is accorded conclusive judicial validation, it was stated, it will make the determination of changes in such valuations a far less cumbersome procedure than it has been in the past, and pave the way for increased flexibility in public utility rates.

The *Sun* editorially stated that the telephone rate case, therefore, has more at stake than the very important dollars and cents adjustment involved, since it would give a much fuller test than any that has been tried in Maryland in the past to a departure in the technique of public utility regulation which may be of profound and continuing public importance.

Mayor Jackson, of Baltimore, asked that the city be permitted to intervene in the commission's investigation. Chairman Harold E. West said that the city would not only be permitted to do so, but would be welcomed.

Massachusetts

Special Investigation of Telephone Utility Asked

REPRESENTATIVE Paul J. MacDonald, appearing before the House Ways and Means Committee on his petition for a special commission to investigate rates of the telephone companies operating in Massachusetts, said that the state department of public utilities was not able or was not willing to conduct an investigation such as he desired. The utilities department, he said, has acted before on rate cases but adversely to the interests of the people. Massachusetts telephone rates, he claimed, had been increased to make up deficits incurred by the telephone company in other New England states. The department of public utilities, he said, should be required to explain why they raised telephone rates in 1925 when other state utilities commissions refused such increases.

Former Senator Joseph Mulhern, favoring the petition, said the utilities department was conducting a rate hearing but the fact that it had gone on for two and one-half years and would take six months more was reason enough why the matter should be handed to another board. Opposition was started by Wycliffe C. Marshall, who is conducting his own rate case before the department.

Questioned as to his fees, Representative MacDonald said he was getting no fee for appearing at the hearing, but Representative Lyons of the committee said: "You have the greatest political racket of anyone here." MacDonald stated that petitions for increase in telephone rates were decided by the utilities department in a few months while the reduction petitions were dragging on for three years.

Opposition appeared also from Charles S. Pierce, vice president of the New England Telephone & Telegraph Company, who flatly contradicted many statements made by Representative MacDonald and Senator Mulhern. In 1925, when increases were allowed in Massachusetts, they were also allowed in other New England states, he said, and denied the statement that the telephone company is making money in Massachusetts but losing in other states.

Discussing the decreased revenue of the telephone company and the loss of 120,000 telephones in 1932, Mr. Pierce told of the company putting all employees on a 5-day week with one-twelfth reduction in salary. This was followed by twenty-five of the high officials taking another one-twelfth reduction. He claimed that salary figures which were cited by the opponents were on a 1930 schedule.

Michigan

State Aid to Cities Utilities Suits Urged

THE appointment of a "public counselor" by the governor to aid municipalities in preparing and presenting utility rate case data was urged by a member of the Michigan Public Utilities Commission, Edward T. Fitzgerald, in a statement published in the Detroit *Free Press* of April 16th. Commissioner Fitzgerald said that as an aid to cities in their attempts to obtain justice in rate matters, he believed the Michigan legislature by revising the public utilities statutes should make provision for the appointment by the governor of a "public counselor" whose duty would be to assist municipalities, first in the gathering and then in the intelligent presentation of evidence necessary for the successful conduct of rate cases before the state utilities commission.

Minnesota

Highway Patrol to Enforce New Code for Trucks

MINNESOTA'S state highway patrol will be utilized to enforce the new code of state truck regulations and avert necessity for setting up an enforcement division, Governor Olson announced on April 26th. At the same time it was learned that members of the state railroad and warehouse commission, railroad executives, and trucking company operators are attempting to work out a new combination of joint rail and truck operations for shipment of live stock to markets.

The utilization of the state highway patrol for enforcement purposes would place upon this division the duty of seeing that no intrastate trucks operate in an area of more than 35-mile radius from their home terminals unless they pay the additional taxes imposed on a weight basis by the new law. The patrol would also halt all trucks operating in interstate commerce and see that they comply with the meter requirements upon which they will be required to pay a ton-mile mileage tax. The patrol will also stop all vehicles exceeding the weight and size limitations imposed by the new law.

Chairman Frank W. Matson, of the railroad and warehouse commission, in charge of truck regulation stated that he expected the enforcement would become operative on July 1st.

Resignation of Commission's Engineer Accepted

THE Minnesota Railroad and Warehouse Commission announced that effective May 1st, the services of D. F. Jurgensen for twenty-four years chief state valuation engineer, and principal state witness in the Tri-State Telephone & Telegraph Company rate investigation, would be discontinued. In making the announcement, Chairman Frank W. Matson said the board was "accepting the resignation submitted by Mr. Jurgensen last December." It was learned that Commissioner Knud Wefald voted against the discontinuance of Jurgensen's services. He declined to comment on his vote, however. C. J. Laurisch, third member of the commission, concurred with Chairman Matson.

In a statement to the press, Mr. Jurgensen denied that he had any resignation before the commission, and added "the commission must be firing me." A news item in the St. Paul *Dispatch* stated that Mr. Jurgensen had had a number of differences with the commission in the last two or three years, chiefly concerning his salary and quarters.

Missouri

New Chairman for State Commission

APPOINTMENT of John Caskie Collett as chairman of the state public service commission was announced on April 24th by Governor Guy B. Park, who at the same time announced that John D. Taylor had refused an appointment as chief counsel for the commission. Until recently, Mr. Taylor who had the endorsement of Thomas J. Pendergast,

leader of the Jackson county Democratic organization, had been regarded as Governor Park's probable choice for the chairmanship. After Governor Park had decided to name Mr. Collett, however, he offered the attorneyship to Mr. Taylor who refused it.

As chairman of the commission, Mr. Collett succeeds Milton R. Stahl, St. Louis Republican, who remains as a member. The term of Almon Ing, another Republican member, of Poplar Bluff, ended on April 15th, and Chairman Collett's appointment changes the political complexion of the commission from 3-2 Republican to 3-2 Democratic, according to a news item in the St. Louis *Globe Democrat*.

Montana

State Board Moves to Protect Railroads

DENYING four applications for certificates which would authorize truckers to operate between points served by railroads, the Montana railroad commission on April 24th laid down a policy which it indicated it would follow, for some time at least, in deciding similar petitions in the future. The commission stated that "any action which will tend to impair the financial stability of our rail carriers and so reduce the quality of their services and the proper maintenance of their properties would reflect upon the normal progress of our state and the general welfare of its people."

The commission said railroads pay 27 per cent of all taxes collected in Montana and employ a large number of men, adding that these conditions have a direct bearing on the policy which the railroad commission adopted.

Nebraska

Governor Signs Power District Bill

THE sixth and last bill signed by Governor Bryan on April 18th was S. F. 310, the so-called enabling act for the organization of public utility districts, with the possibility of the construction of large storage reservoirs in several localities in Nebraska with millions borrowed from the Reconstruction Finance Corporation. It provides for the generation, distribution, transmission, sale, and purchase of electrical energy for lighting, power, heating, and other purposes. It also provides for the organization and operation of public power districts and public power and irrigation districts.

New Jersey

Bill Would Limit French Phone Fee

LEGISLATION to abolish the surcharge by telephone companies for use of French type telephones one year after their installation passed the assembly on May 3rd by a close vote. The legislation which was originally believed to have no chance of passing was introduced by Assemblyman Siracusa, Republican of Atlantic county, who defended the measure almost single handed against an attack which was made by Democratic assemblymen.

Under the bill it is unlawful for telephone companies to refuse to connect instruments not owned or leased by the concern providing the instruments do not impair service. No charges are permitted for installation of instruments not belonging to the telephone companies. Where a surcharge is imposed upon installation of instruments owned or leased by telephone companies, the charge can be continued for only one year.

The history of the legislation is interesting. Siracusa, while abroad, was given an elaborate hand-carved French telephone that matched the green furniture of his home. When he returned, the telephone company would not permit the installation. Siracusa introduced the measure as a result. The fate of the measure in the senate was said to be "questionable" as late as May 8th.

New York

Three Cities Start Fight on Utility Rates

THREE of the larger cities of the Empire state, New York city, Buffalo, and the entire metropolitan district of Albany continued to press battles for reductions in utility rates.

Outlining his procedure in opening the fight for New York city for reduced electric, gas, and telephone rates, Corporation Counsel Arthur J. W. Hilly said on April 27th that he would seek to show that the cost of reproducing the properties of two large electric companies had dropped between 25 and 40 per cent, thus justifying an immediate rate reduction. The companies themselves have used the reproduction cost basis to obtain increased rates in former years. Upon this basis, the fair return on their investment has been determined. Mr. Hilly said that, in addition to attacking this basis of utility rates, he would also argue that decreased operating costs resulting from cheap commodity prices and a cut in the number of utility employees justified reductions.

On May 1st, the city's chief legal advisor filed complaints with the public service commission against two electric companies. Mr. Hilly has collected evidence tending to show that the gas companies have made coke production profitable to a point where the production of gas may well be considered as a side line.

In the Albany area, Mayor Thacher will head a committee of officials of Albany, Troy, Schenectady, Watervliet, and Cohoes to ask the New York Power & Light Company to reduce rates immediately. Failing, the committee will institute a joint rate investigation and ask the public service commission to take action, according to a news item in the Albany *Evening News* of April 20th.

The Buffalo situation is somewhat beclouded as the result of a political fight developing between the Democratic city council and the Republican Mayor Roesch. On April 27th, Councilman Jenkins charged in a lengthy communication to the common council that Mayor Roesch had deliberately hamstrung the city in its fight for lower utility rates, by vetoing the $50,000 utilities "war chest" included in the budget by the Democratic majority of the council.

The mayor, in his veto message, called the $50,000 item a "slush fund" to be used by the Democrats for campaign purposes.

North Carolina

Senate Reduces Proposed Power Tax

THE North Carolina senate, on April 26th, by a vote of 26 to 19 eliminated the half-mill kilowatt-hour tax inserted in the revenue bill by the house of representatives. The action, which carried out recommendations of the senate finance committee, followed similar action in reducing the railroad franchise tax from 90 to 82½ cents on each $100 of valuation.

On April 28th the senate cut more than $1,500,000 from the $9,000,000 annual yield of the 3 per cent general sales tax by amendments which partially exempted foods and recouped $312,500 of that amount by increasing franchise taxes on public utility corporations.

Ohio

Utility Attacks City Expert Witnesses

STRIKING at "city experts" in the electric light rate controversy now going on in Akron, the Ohio Edison Company on April 20th sent letters to more than 60,000 customers in Akron, giving the company's side of the light rate battle. L. T. Tighe, vice president and Akron division manager of the company, declared in the letter that under the so-called "Sanderson ordinance" (designed by city experts as making 90 cents a month saving, so as to supersede the so-called "Miller ordinance" which would make a $1.10 a month saving, and which the utility previously stated that it was unable to accept) the revenues of the company would actually be cut lower than under the Miller ordinance. Mr. Tighe's letter charged that the city's experts were men "without knowledge of the facts and wholly lacking training and experience with rate-making problems." The

letter concluded that, as a result of the city's action, it would be compelled to carry the controversy to the state commission—a course which it regretted exceedingly.

Oregon

Commissioner Seeks Regulatory Powers from the People

After promising to go direct to the people by way of the initiative petition to obtain absolute mandatory powers over public utilities of Oregon, Charles M. Thomas, public utilities commissioner, set his engineers and investigators to work on April 12th examining records of the California-Oregon Power Company. Thomas addressed a meeting in Klamath Falls on that date in which he denounced the "destruction" of his utilities regulation bill by the legislature, which amended it so as to remove some of the absolute power asked by the public utilities commissioner.

He said that an initiative petition embodying approximately the same grants of power contained in the original bill, as drafted by himself, would be circulated and that a vote would be taken at the next general election. Thomas traced the development and history of public utilities in America and asserted knowledge that there was much talk of himself being a "czar" over public utilities, but denied that such fact was true.

Pennsylvania

Conferees at Work on Utilities Regulation Bill

The legislature on May 3rd sent to conference the so-called McClure bill revising the public service commission laws so that amendments suggested by Governor Gifford Pinchot can be considered. The house passed the measure, which proposes additional regulation of utility companies and sent it to the senate for concurrence. The senate refused to accept the amendments, and the measure goes to a conference committee. The governor, in a statement on May 3rd, denied reports that he had threatened to veto the bill. One of the amendments suggested by Governor Pinchot would limit the length of franchises to fifty years, as in the Federal Water Power Act. Another would establish a so-called excess profit reserve so that if a utility earns more than the legal 7 per cent in any year, the excess instead of being distributed as profits will be set aside to make deficiencies in any year when the earnings are less than 7 per cent. Governor Pinchot stated that, if enacted, this provision would do away with the incentive for utilities to earn excess profits and would immensely simplify the task of regulation.

Pennsylvania Commission Has Two Chairmen

A Harrisburg dispatch of May 8th indicated that when the public service commission would hold its executive sessions after that date there would be "two chairmen" ready to preside. Dr. Clyde L. King, designated by Governor Pinchot last year to succeed the late William D. B. Ainey, was still occupying his office on that date despite the fact that the governor, following adjournment of the senate without action on the nomination of Dr. King as a chairman, had designated Commissioner C. Jay Goodnough to succeed Dr. King.

The governor took the position that on the date that the senate failed to confirm Dr. King, Dr. King's tenure of office ended automatically. Legal counsel for Dr. King, however, contended that under the supreme court rule in the James S. Benn and S. Ray Shelby cases in 1925, Dr. King may hold office until the senate disposes of the governor's nomination. Commissioner Goodnough indicated his willingness to discuss the situation with Dr. King.

Meanwhile, Attorney General William A. Schnader from Philadelphia indicated that he will probably file *quo warranto* proceedings against Dr. King in the state supreme court requiring him to answer by what authority he continues as chairman. It was indicated that an attempt would be made to argue the case before the court at its May 22nd session in Harrisburg. Dr. King said on May 8th that he had not had an opportunity since the governor appointed Commissioner Goodnough as chairman to discuss the legal phases of the matter with his counsel, Roland S. Morris, former Ambassador to Japan and state Democratic chairman. There was a possibility that court action might be started by Dr. King in the Dauphin county court to restrain Commissioner Goodnough from functioning as chairman.

The Latest Utility Rulings

Utility Loses Appeal in Los Angeles Gas Rate Case

On May 8th the Supreme Court of the United States upheld an order of the railroad commission of California fixing rates on gas to be charged by the Los Angeles Gas and Electric Corporation, which is estimated by the company to effect a reduction of approximately 9 per cent. The decision by Chief Justice Hughes affirmed a decree of a lower Federal district court refusing to enjoin permanent enforcement of the commission's order.

The commission's rates were estimated by it to yield a return of approximately 7.7 per cent on the historical value of the corporation of $60,704,000 and 7 per cent on the valuation for 1930 of $65,500,000. The California commission has for a number of years followed the practice of fixing rates based upon the historical cost rather than upon any definite consideration of reproduction cost, but has attempted to avoid Federal restraining orders by allowing a sufficiently large return upon the historical cost basis to avoid confiscation as tested by a "present value" rate base. The Supreme Court has apparently sustained this commission practice. Chief Justice Hughes' opinion stated:

> "The legislative discretion implied in the rate-making power necessarily extends to the entire legislative process, embracing the method used in reaching the legislative determination as well as that determination itself. We are not concerned with either, so long as constitutional limitations are not transgressed. When the legislative method is disclosed, it may have a definite bearing upon the validity of the result reached, but the judicial function does not go beyond the decision of the constitutional question. That question is whether the rates as fixed are confiscatory. And upon that question the complainant has the burden of proof and the court may not interfere with the exercise of the state's authority unless confiscation is clearly established."

On this point, Mr. Justice Butler dissented. He stated: "The commission's refusal to apply principles of valuation established by our decisions resulted in arbitrary undervaluations and the prescribed rates on that ground should be set aside." Mr. Justice Sutherland concurred in the dissenting opinion of Mr. Justice Butler. Mr. Justice Van Devanter did not participate in the proceedings.

The majority opinion rejected the company's claim that the valuation order of the commission constituted confiscation of its property due to the failure to allow for certain intangibles. Chief Justice Hughes said that the claimed items were "to conjectural" to warrant consideration. Particularly on the subject of going concern value for which the commission made no specific or separate allowance was the court's opinion interesting. The court pointed out that there was a difference of at least five and a half million dollars between the total rate base allowed by the commission and the combined amounts assigned by it to various units of property value. Since, the court opinion continued, there was nothing in the record of evidence to indicate any greater intangible value than this residual allowance, the commission's failure to make a separate allowance for going concern value was not reversible error. The opinion stated that "the fact that this margin in rate base was not described as going value is unimportant if the rate base was in fact large enough to embrace that element."

The court held that the allowance of 7 per cent return under prevailing economic conditions could not be said to be so low as to constitute confiscation. The court also pointed out that estimates of present value taken as the

cost of reproduction as of December 31, 1929, and based upon average prices from 1926 to the end of 1929, furnished no dependable criterion of values in the succeeding years because of the subsequent serious decline in price levels with the beginning of the economic depression of 1929. The commission's historical cost rate base had been erected by adding the cost of additions and betterments subsequent to 1917 to an agreed valuation of the company's properties made by the commission as of that year.

The Los Angeles Gas Company has continued to collect existing rates and is now reported by the *Wall Street Journal* of May 9th to have on hand an impounded sum of $2,500,000, representing the difference between the existing rates and the reduced rates prescribed by the commission. *Los Angeles Gas & Elec. Corp. v. California Railroad Commission et al.* (*No. 412.*)

Service Charge for Power Eliminated in Georgia

COMPLETING its revision of rates of the Georgia Power Company, the Georgia Public Service Commission on April 29th ordered the elimination of the so-called service and demand charges made against small commercial consumers, and revised the kilowatt-hour charge for electric energy so as to effect savings of approximately $250,000 a year to about 30,000 of the company's patrons. In publishing the order the public service commission issued a statement through its chairman, James A. Perry, asserting that rates lowered this year effect a saving of $500,000 annually to power consumers and that savings of the last five years amount to approximately $7,600,000. The commission added that on its present "minimum" valuation the company will not earn a return of 5 per cent.

No announcement came from the power company as to whether it will oppose the placing in effect of the new schedule which will be as of the meter readings of June 1st. Chairman Perry explained that the revised rates not only eliminate the service charges of $1 and $2 placed on various classifications of customers, but also lower certain kilowatt-hour rates to a point never before reached. *Re Georgia Power Co.*

Intercorporate Stock Transactions Banned in Missouri

THE supreme court of Missouri has reversed a lower court's judgment which sustained a ruling of the Missouri commission granting authority to a Chicago holding company to acquire and hold more than 10 per cent of the stock of the Laclede Gas Light Company and of the Laclede Power & Light Company. The supreme court decision also ordered the orders of the commission to be set aside. Appeal from the ruling of the commission was taken by the city of St. Louis, intervening as an interested party against the granting of the applications. The holding company affected was the Utilities Power & Light Corporation, a Virginia corporation, which owns all the capital stock of the Laclede Gas & Electric Company, which in turn owns the controlling interest in the two St. Louis utility corporations immediately affected.

The supreme court said that a positive benefit to the general public must be shown before the commission can approve of the acquisition by a holding company of any controlling interest of a public utility company operating within the state of Missouri. The decision reaffirms another ruling of the state court handed down in October, 1932, which reversed another order of the

commission permitting the transfer of stock control of the St. Louis Public Service Company to the City Utilities Company. In the October opinion the court held that the public policy of Missouri was to oppose the acquisition of more than 10 per cent of the outstanding stock of a public utility by another corporation, in the absence any positive showing of public benefit by the company. In the later decision, Justice Cooley, writing the opinion of the court, stated as follows:

> "That decision is in point and controlling on this issue in the instant case. In this case it was not and under the evidence could not be found by the commission that any benefit could be expected to result to the domestic utility companies or to the public if the applications were granted. The only benefit suggested by the evidence was to the applicant in the saving of some taxes it now has to pay."

Re Laclede Gas Light Co. et al.

Illinois Bell Victorious in Federal Court

THE Illinois Bell Telephone Company won a victory on April 29th in its 10-year fight against the Illinois Commerce Commission and the city of Chicago, which have been demanding lower telephone rates. The ruling was issued by a 3-judge Federal court composed of Justices Evan A. Evans, Will M. Sparks, and James H. Wilkerson, and made permanent the injunction that has restrained the commerce commission from enforcing the schedule of lower rates which it ordered in 1923.

The decision, unless reversed by the United States Supreme Court, will set free a reserve estimated by company officials at about $15,000,000, put up by the telephone company for possible refund to subscribers in the event the decision went against it. The city of Chicago has been interested in the case as an intervening petitioner.

The court held that if the rates suggested ten years ago had been enforced, the company's income would be $2,000,000 to $3,000,000 a year less than the fair rate of profit to which the court felt the corporation was entitled. The case, which has already been in the United States Supreme Court, was remanded some months ago to the district court with instructions to consider more details of the financial operations of the company. The "fair value" of the company's Chicago area property for the years 1923 to 1932, inclusive, for rate-making purposes, according to the court ruling, rose from $124,200,000 in 1923 to $166,500,000 in 1932, and the intrastate revenue for business in the Chicago area rose from $27,146,181 in 1923 to $56,426,299 in 1931, while expenses during the same period rose from $30,500,000 in 1923 to $46,670,000 in 1931. The court held that the telephone company had shown that the goods it purchased from the Western Electric Company, prices of which were one of the bones of contention in the litigation, had been secured at a fair rate.

On the subject of return the court found that the company's rates yielded 7.5 per cent for 1923 to 1927, inclusive, 7 per cent for 1928, 1929, and 1930, 6.5 per cent for 1931, and 5.5 per cent for 1932. The court's opinion stated that a fair return for depression years would be lower than in prosperous years, but that the enforcement of the commission's rates which would result in a return lower than that earned by the company under the prevailing rates would result in confiscation. It was expected that a review in the Supreme Court of the United States will be sought. *Illinois Bell Telephone Co. v. Commerce Commission.*

Consumers Bound by Service Contracts in the Absence of Commission Relief

WHERE a natural gas company constructed a pipe line from gas fields in Oklahoma to a city in Kansas and a distributing system in such city at a cost in excess of $2,000,000 pursuant to contracts with consumers in such city obligating the consumers to purchase gas during a certain period in accordance with the schedule of rates set forth in the contracts, a consumer could not avoid its obligations to purchase its gas from the company at the contract rate during the period specified in an agreement extending the contract on the ground that the agreement was lacking in mutuality and not enforceable by reason of the power of the Kansas Public Service Commission to regulate the company's rates. Such was the ruling of the United States Circuit Court of Appeals. It was also held that while the state commission has the power to modify contract rates it can only exercise such power after it has found that the rates are unreasonable. In the absence of such a finding and an order of the commission abrogating the contract rates, the contract remains in full force and effect and the rates provided therein remain binding on the parties In the instant case the commission had taken no action as to contract rates. If it had modified the rates, the contract would have remained in force as modified, since such contracts are presumed to have been made in contemplation of the paramount power of the state to regulate the rates.

The court held that the company was not deprived of its right to injunctive relief against the consumer's breach of the contract on the ground that it had an adequate remedy at law, since the contract dealt with a commodity not readily salable or obtainable in the general market. The company's patrons belonged to a limited class. The company and its affiliates had expended large sums of money to enable it to carry out its contracts to furnish gas. The particular contract had thirty-seven months yet to run and damages for the breach of the contract during such future period would, in the opinion of the court, be extremely difficult to ascertain. *Allen W. Hinkel Dry Goods Co. v. Wichison Industrial Gas Co. (No. 789.)*

Special Fee for French Phones Limited

SOME 60,000 users of cradle-type telephones in Ohio will share $180,000 a year under an order of the state utilities commission issued April 22nd, which directed the Ohio Bell and the Cincinnati Suburban Telephone companies to discontinue after May 1st the extra charge of 25 cents monthly on cradle phones, where the instruments have been in use for three years or longer. It was estimated that 60,000 of the more than 140,000 cradle-type phones now in use in the state were installed at least three years ago.

Appearing before the commission in answer to a citation to show cause why the charge should not be discontinued, the company contended that if the commission removes the charge it will be taking away a special revenue which formed a part of the earnings and, therefore, it would throw open the general rate structure of the company. Commissioner Frank Geiger, who wrote the ruling, declared:

> "The commission would be intolerably restricted if it were forced to take that attitude. . . . Telephone experts are of the opinion that the hand set does not present any advantage over the desk set in transmission. The company, at the inception of this service, regarded it as a luxury, the use of which would be optional to subscribers."

The commission ruled that where the